

À
R E P L Y
TO THE ANSWER

(Printed by his Majesties Command at OXFORD)
to a Printed Booke Intituled

OBSERVATIONS

upon some of his

M A I E S T I E S

late Answers and Expresses.

By J. M.



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A reply to the Answer (printed by
his Majesties Command at *Oxford*) to a
printed booke intituled Observations upon some
of his Maiesties late Answers
and expresses.



He Authour of the Answer to the Observator (which was printed at *Oxford* (no place more fit to entertaine such cavils) by his Majesties Command (too good a Patron to be thus abused) Begins his discourse by way of Preface, and there would tell us the Originall of Regall Authority, were it not a losse of time (he has been to profuse & prodigall of it in his Book, he doth well to spare it in the Preface) for that he sees [*'tis granted to be at the least mediately from God.*] I shall not dispute whether God be the immediate donor of Royalty or no;

For I take it to be very cleare and evident, that the Kings of *Israel* were of Divine institution; But that Royall Authority should bee nnto us, or the succeeding ages more of Divine right or Institution, then Aristocraticall or Democraticall power, that I deny: for were they of Divine institution, it must of necessity be, that all States must be swayed and ruled by Kings; and the execution of other power were sinne, and that I hope no man will dare to assert. Again, were they of Divine right, they ought to have equall power and Dominion in all places; and that they have not, for as it is well known, in some Kingdomes they have greater Authority, in some lesse; And all vary according to the severall Lawes and Constitutions of their Countries. Why then if they bee of humane institution, it must be agreed, that no King hath at this day, any speciall Ordinance from Heaven by which to intitle himselfe to his Crowne and Regall authority: And hence the consequence is just, that Kings are bound by those qualifications of compact and condition that were made with them by the people, and ought to discharge and execute their Royall functions answerable thereunto.

But then he goes on and tells us that power or government [*was ordyned of God for the good of mankind, which was not to bee obtained without preservation of order, and therefore he hath commanded all to be subject to the Lawes of society, not onely for wrath, but for conscience sake.*] With this limitation the Author saith true, we must submit to the Lawes of society, where they doe not oppose the Law of God, otherwise not, for how can a man obey for conscience against conscience?

And he saies we must submit, [*not onely whilst we enjoy the benefit of Governors, but likewise whilst we doe suffer under some accidentall abuses.*] I, but what if those abuses prove to be wilfull? I know that is the Authors meaning, though he will not expresse it, for if his opinion might passe as Orthodox, the cases would be all one, I, and what if those abuses strike at our Religion, at our lives, liberties, and estates; at all that God hath entrusted us with, and made us happy in; must wee here submit and quietly surrender up all our happinesse at once? a most strange Doctrine. Well let him Preach it at *Oxford*, to those whom a foolish zeale hath besotted with an unwarrantable devotion to their Sovereign. But let us know, that good subjects may preserve these & yet not be the lesse, but the more dutifull to their King; Is it any breach of duty to deny that
which

which the Law of God and my conscience tels mee that I ought not to grant? or can that have the imputation of disloyalty to my Sovereigne which styles mee just before God? well, to passe this (because I shall have occasion to speake more fully to it after) those that maintaine this error, misery will bee this portion here, and a just judgement hereafter.

But he tels us that [*we cannot reape the constant fruits of an established policy, unlesse by compact we submit our selves to some possible inconveniences.*] The Author would have done well to have explained himselfe what he means by those inconveniences; but certainly this is his meaning (for the whole scope of his Booke speakes as much) that it is possible a King may degenerate into a Tyrant, and make his boundlesse Arbitrary will to be Law, and if this fall out, (as too commonly it doth) yet wee must patiently doe or suffer what ever (though never so unjustly and contrary to good conscience) is imposed upon us, and which is more, wee must by sollemne contract binde our selves beforehand this to doe; and why so? for that otherwise there can be no constant benefit of an established policy. A most strange and unnaturall assertion, was it ever heard, or can it bee imagined, that a people should contract to their owne ruine? there is a mutuall compact betwixt King and People, the King is to governe by a rule if he would have his people to obey; and if he swerve from that, this dissolves the contract, and gives the people power to defend and preserve themselves. And if this were not Law, what benefit could we expect to reape of such an established destructive policy?

He hath made bad premisses, and worse conclusion, for marke what he has deduced from thence. Hence (saith he) *it followes after a people hath by sollemne contract divested it selfe of that power which was primarily in them, they cannot upon what pretence soever without manifest breach of Divine Ordinance, and violation of publique faith resume that authority which they have placed in another.* This by the way, power (according to the Authors owne confession) was primarily in the people (a truth ingeniously acknowledged) but the mischief proceeds; they have by contract divested themselves of that power: how is that made good? why thus, they chose one to be King over them, and contracted to obey him; what in *omnibus mandatis*, in all his commissions, nothing lesse; for that might be to disobey God, and whether it bee lawfull to obey God or man, judge you. I, but they have given him an absolute Authority, and made him supreme, and therefore not to be questioned by any inferiour power; and if this were true, his Majesties counsell (who too apparently maligne the happinesse of King and people, and would worke out their owne ambitious desires by the ruine of both) would never have advised his Majesty to have inserted this into many of his Declarations, that his Royal power was committed unto him by God and the Law, in trust for the well governing and defending of his people committed to his charge. And as a trust is for the benefit and behoofe of him, for whose sake the conveyance in trust was made, not of him, who is the party intrusted. So likewise every trust doth imply a condition that the party doe duly performe and discharge the trust, or if hee doe not, that he bee compell'd so to doe. This then being thus, how have the people totally divested themselves of their power? I doe not speake this to defend the peoples resumption of their Authority, or to justifie that position of deposing Princes, so farre I concurre with the Author: but that they should have a boundlesse unquestionable power, that I denie.

Again (for he maketh a second conclusion out of the former premisses) *hence it followes (saith hee) though the people should conceive they might live more happily, if the Kings Prerogative were more bounded, his revenues diminished, it were high sinne to entrench upon his right.* Happy condition in State, when that the Kings Prerogative doth not invade the subjects Liberty nor their Liberty entrench upon Prerogative; but each keepe within their proper Sphere and circumference: But this wee must know, that as the Kings Crowne and Royal power was committed to him in trust for the good of his people, so likewise were his Priviledges and Prerogatives, and if these be abused to the detruing of Liberty, and the oppression or the destruction of his people, tis no entrenching upon Prerogative, to question this abuse, and indeavour our owne preservation.

I, but then he saies, *it doth no way prejudice regall Authority, that God is the Author of Aristocrat. call or Democraticall power.*] Doth the observators saying that God is the author of those powers, any way conclude against regall authority? where the powers are various, and no way contradictory or opposite one to another, for a man to conclude the illegality of the one, from the legality of the other, were a very simple and fallacious kinde of reasoning.

But our Authour will not bee thus satisfied, for he doth here charge the Observator *with treading in the steps of Mariana and Buchanan sworn enemies to Monarchy.*] And why so pray you? why because the Observator doth shew how the infancy of the world was governed; Most Nations being ruled by their Lords and their Arbitrary edicts, which was not (he saith) in a long time digested. And then for that he further sheweth the inconveniences, which in more mature ages were found to accompany unconditionate Royalty, but concludes that since most Countries have found out an art for the regulating the exorbitances of Princes, hee is very unjust that will oppose this Art and Order. And now let any wise and indifferent man judge how falsely and maliciously this imputation of an enemy to Monarchy is cast upon the Observator: for doth the demonstrating and disproving of other Governements any way strike at Monarchy? or doth it not rather propp or support it? doth not the disallowing of other powers (if not commend) yet tacitly allow and approve our owne? Nay doth he not here (as in other places) expressly applaude the order and constitution of bounde Monarchy so well fenced in by the Art of Parliaments? why then what colour or ground is there for this imputation? Is there not a wide difference betwixt modification and extirpation? had our Authour considered this, certainly he would not have beene thus unjust in his censure; But here we may learne what Doctrine is daily delivered to the King: That it is the Kings Crown that is aimed at, & not onely so, but even the very dethroning of him & his whole posterity, and in truth so it is, but by his Majesties evill Councillors; who to magnifie themselves intend the ruine of the Common-wealth. and is not that in effect a dethroning of his Majesty? all that I shall say is but this; No Govenement more blest or happie, if not abused by the advice of vile and malignant Counsellours.

After so long a Preface, the Author tells us, that *hee will now take into consideration the Observators grounds, upon which hee would overthrow so ancient and well founded a Monarchy.*] The false imputation of enmity against this great and well established power will not be thus shaken off; The truth of it is, he that resolves to say any thing, be it never so scandalous and void of truth, will againe resolve to stand or fall upon the same principles.

But give him leave and he will shew you one of the grounds that strikes at Monarchie (pay observe what an unnecessary inference is here made by the Author.) The observator saith: that,

The King attributeth the originall of his Royalty to God and the Law, making no mention **Obs.**
at all of the grant consent or trust of man therein.]

A groundlesse cavile (saith the Author) and why so? because when God is first named, **Ans.**
under what notion can be apprehend Law but as an agreement of the people deriving of their power, and committing the Kingdome to his trust.]

You charge the Observator with a cavile, and you labour to make it good by so large **Rep.**
allowance, that I could not have expected so much from *Oxford*. What an agreement of the people in the erecting of a King, and a deriving of their power unto him, and which is yet more, a committing of the Kingdome to his Majesty in trust (why then that is no absolute and illimited power) tis much all this should bee granted, but yet I feare, tis you, not the Observator that deales sophistically with his Majestie, telling him that the consent and agreement of the people is so obliterated and antiquated by time that it is not now to be taken notice of, or that it is extinguished by the letter of the Law, so that though at the first he received his Kingdome upon trust yet it is now by a successive usurpation growne absolute. And whether this be true or no let all the world judge: for what else can be the meaning of that frequent expression in many of his Majesties Declarations

clarations ? that he is responsible to God alone for his Actions, not to man. Is not this (since no absolute power was transferred by the people, as it is here confessed, & as I have made it good before) a denying of the consent and agreement of the people, and a granting of a boundlesse Authority? And how can that and a trust stand together? certainly a dependant and an independant government are not Synonyma. Tis true, that if a people doe erect a King over them, that this is confirmed and ratified in Heaven; But being of humane institution this doth no way expunge those qualifications of trust and condition which are incident to, and tacitly passe with this sacred function; and if so, we must of necessity allow a power in some, to see the due discharge and execution of them; nor will it derogate from the honour of God or the dignity of a Prince, that the people exact the due execution of the Law, and the performance of that compact, trust, and condition, that followes Sovereignty. By this time I hope our Author may be satisfied, that it is he that cavils, not the Observator, since it is plaine that the word (Law) though it doe receive so candid an interpretation from the Observator) may be and is denied to be the consent and agreement of the people. But now how doth this determine against Monarchy? why yes, thus, or not at all; The King denies the people their right, therefore the people may take away his. Is this one of the grounds upon which the Observator doth intend to overthrow Monarchy? yes, if our Author may be judge. Was ever imputation of so great guilt layed upon any man upon such shallow grounds? Well, since he failes here, suspends your judgement but a while, he may make good his charge hereafter.

Obs.

That Dominion which is usurped and not just, yet whilest it remaines Dominion, and till it be legally againe devested, refers to God, as to its Author and Donor, as much as that which is hereditary.]

Ans.

To which our Author saith, *that usurpation and unjust Dominion can give no right to the possessor.*

Rep.

Can it any way by the most scrutenous understanding be collected from the Observators words, that usurpation gaines a right? what probability can there be of this inference? If this could be made good, Lawes would be but Cyphers and unlawfull force upon any mans interest, the best meanes of living, so that he who could steale most would be the true proprietor of most, and the strongest prove the richest men. But doth not the Observator expressly say, that that Dominion which is usurped is not just? if so, what needes this Cavill? O yes, for he saith, that it is a flat contradiction to say, *that God is the Author and Donor of Dominion usurped and not just, as well as of that which is hereditary*; and what is his reason? why, *for that God being Lord proprietary of all, his donation transfers a full right to him on whom he bestowes it, and this deede of gift being knowne, it is not lawfull to indeavour a recovery,* and therefore God cannot be the Author and Donor of that dominion which is usurped and not just, for that such a Dominion doth not intitle a man to a full right, because the lawfull proprietor may regain it by Conquest, as justice permitts, and so reestablish himselfe in his Dominion. Yet under favour this is no contradiction, for doth or can the revolution or Mxander of time produce any change or alteration, either in King or State that God is not the Author of the evill of sin man alone is the father of, for that sinne is inconsistent with that absolute purity and holinesse that is in God, but the evill of punishment, that is Gods. Is there any evill in the City that I have not done saith the Lord? And if God, for the sinne of the King or people, or both, shall permit a stranger to usurpe upon the dominion of the King, and to entrench upon his Sovereignty; is it any contradiction to say that God is as much the Author and Donor of this Dominion that is thus gained by usurpation, as he is of that which is hereditary? doubtlesse not, for God is onely the confirmer, man the creator or institutor of both. And though God as absolute Sovereigne and Proprietor can transferre a full right in any thing unto whom he pleaseth; yet it doth not follow that hee will alwaies so doe: For as sinne may divorce a King from his Kingdome, or a people from Gods blessing for a time, so true and unfained repentance may (through Gods mercy) reestablish and unite them againe together. When our Author had said (as before) that

that where God is the Donor of Dominion, that there it is not lawfull to indeavor a Recovery ; He further adds, that *this was the case of Rehoboam, who after the defect of Ten Tribes raised an Army out of Judah & the Tribe of Benjamin in hopes to reduce them to obedience: But was warned by Shemaiah the man of God, not to fight against his brethren not because it was unlawfull in it selfe, or the successe unprobable, but for that this was from the Lord.* I shall not dare to defend a peoples revolting from their King (though their burden be great and their yoke heavie) as here *Israels* from Rehoboam, who (when they could not obtaine an ease, or discharge of their pressures which they had suffered under his father *Salomon*) answered the King saying, what portlon have wee in *David*? neither have we inheritance in the Son of *Iesse*; here they disavowed their King, and not long after have made *Ieroboam* King in his stead : for my part I do not beleeeve this to be a warrantable Act in *Israel*. And I conceive that *Rehoboams* taking up of Armes to reduce them to obedience was lawfull, and that he might have proceeded, and have expected a good successe upon his indeavour, had hee not had an expresse command from God to the contrary. But now on the other side, I will not justifie *Rehoboam* in forsaking the Councell of the sage old men, who (as grave & wise counsellors that seeke the good of the publique, not their owne) advised the King that if he would bee a servant unto this people, and serve them, and answer them, and speake good words to them, then they would be his servants for ever ; (here you may learne the Office of good Kings and their Counsellors) but the King (as most Kings use) reiecting such rigid counsell, betooke him to his young men and consulted with them, & asked them what Counsell they would give him, (tis easie to judge what the effect of their Counsell would be) and they answer him, thus shalt thou say unto them, my little finger shall be thicker then my fathers loynes : in stead of an ease of their present miseries, he promises them that he will augment them for the future ; no question this was a great sinne in *Rehoboam*, and I am confident had not *Israel* revolted, they might have justified before God, the taking up of Armes against these Malignant Counsellors, for the restoring and reducing of their ancient Rights and Liberties : Kings must serve their people by protecting and defending of them according to Law and right, as also by easing of them of all unlawfull pressures, if they expect that their people should serve them in love and obedience.

The Authour goes on, and saith, *Though force be not Law, yet if after conquest, a people resigne their right in part or in whole by a subsequent Act of consent, they are obliged to stand to those conditions, which they made perchance out of a probable feare of harder usage* Who will oppose this, our Author needed not to have laboured for instances to make this good, or to have shewed us the strong obligation that the Law of God and man, doe impose upon such compacts and agreements, for no doubt men ought to bee faithfull in the discharge of their engagements, though it be to their owne prejudice ; besides as wee say in Law, he that disseises or dispossesses another of his freehold, or other interest, hath a right against all men, except the disseisee, or the party so dispossessed ; so without question it is in case of Dominion or Royalty, hee that gaines a Kingdome by Conquest, is absolute King against all men, except the rightfull Sovereigne, and therefore as our Law is, well knowne, he may obliterate and utterly extirpate and abolish their old Lawes and rights, and create & introduce new, which is one strong argument of true & absolute Sovereignty. But I hope on the other side our Author will take notice that the right of Conquest cannot be pleaded to acquit or discharge Princes of their duty. There is *Onus* as well as *honos*, that is, a great burden, charge and care as well as honour and renowne, that is inseparably incident to this great function, and therefore he that gaines the one, be it by discent, conquest, or otherwise, must discharge the other.

The fountaine and efficient cause of power is the people, and from hence the inference is just, the King though he be *singulis* major, yet he is *universis* minor. Obs.

The author tels us: that, *This inference is most weake, and that the quite contrary may clearely be concluded ; pray heare his reason, The people being the efficient cause of power (which can be no other way, but by deriving their divided power, and uniting it in him,) since they cannot retaine what they have parted with, nor have what they gave away,* Ans.

Rep.

it follows he which hath their power (I may adde his owne perticular besides) must needs be greater and more powerfull then they. The Authors argument, to destroy the Observators inference, is but this ; that though the people be the fountaine and efficient cause of power, yet for that they have made a free Donation of all power to the King since they cannot be owners of that they have given away ; therefore it must needs follow, that the King is greater then the people. I doubt the Author will finde it a greater difficulty to maintaine this Argument then to make it ; for if it can be proved (on that hangs the strength of his argument :) that the people have not divested themselves of all power out of his premisses, the consequence is just, that the universe is greater then the King. Now if trust and condition are inseparable incidents to Sovereignty (as I have shewed before) it must follow, that the people represented by a Parliament may call in question the breach of them for otherwise the power would be (in effect) absolute, which hath been denied even by the King himself, who acknowledgeth that his Kingdome is committed to him in trust: and if so (as no doubt presidents of that nature are not wanting to posterity, (for that no question that was one maine ground of the constitution of Parliaments ; the restraining of the exorbitancy of Princes) why then how can it bee that the people should have divested themselves of all their power ? for it must be agreed that that power which may call in question the discharge of others is the supreme and superintendent, for no inferiour power can doe it, so that by this time, I hope the Author is satisfied, that the Observators inference is just, and his reason weake and defective.

Obs.

But the Observer tenders a prooffe of the premisses, for (saith he) *If the people be the true efficient cause of power; it is a rule in nature, quicquid efficit tale, est magis tale.*

Ans.

Strange (sayes the Author) that men upon such palpable sophistry, should endeavour to cast off Monarchy.

Rep.

It is more strange to mee that men against cleare reason, should make themselves so palpably ignorant, can not the Author difference a reasonable modification or qualification, from an extreame extirpation, or eradication : if my reason faile me not, it is he that indeavoureth (what ever he pretend) the casting off of Monarchy : for as Monarchy is never so secure, as when fenced in by the wisdom of Parliaments, it submits to their determinations : so it is never so much in danger, as when it exalts it selfe above and against them, and endeavoureth an absolutenetic of Sovereignty: hence it may be determined who are the greatest enemies to Monarchs. But pray what is the sophistry the Observer stands accused of ? why, it is this ; he hath given you a rule that is regularly, not generally true ; that will maintaine the case in question, not all others : for instance, he tels the Observer, *That he will be unwilling to follow the consequence of this rule : and why ? for that (saith he) he hath an estate which no question he would willingly improve, let him bestow it upon me, he will make me rich, and himselfe richer : for quicquid efficit tale est magis tale.* I, this is that hath made this great combustion, matter of right and estate, could you perswade us out of our reason, you would quickly seize upon these : but I trust your sophistry shall not so captivate our sense, as to betray our selves to ruine by a foolish prating with that, which God dispenced unto our Ancestors, and they through his mercy, bequeathed unto us. If I should tell you, that God made man, therefore God is greater than man, or that the Ocean distributing it selfe into severall streames or rivolets, is greater than those rivolets, and so conclude that therefore, *quicquid efficit tale, est magis tale*, you would presently say, that this were no infallible way of reasoning : why for you to conclude, that it doth not hold in some cases, therefore not in the case in question, is not this the same fallacy ? but as befor, now I shall make good the Axiome in our case upon his owne grounds, for he saith, *it doth hold in those agents in whom the quality by which they operate is inherent, and from whom it cannot be seperated : not true in those who by way of donation divest themselves of power or wealth.* That power was originally inherent in the people, that I thinke will not be questioned. That the people have not divested themselves of all their power, is cleared thus, (as I have shewn before)

fore) that power that is fiduciary and upon condition, must needs bee subject to a power more supream, to see the due discharge of this trust and condition, or otherwise it would in effect prove absolute, but I say the Royall dignitie and authority is fiduciary only and upon condition, therefore it must be subject to a power more supream, which can bee no other than the people represented by a Parliament. Besides, what a groundlesse and unnatural thing is it to think, that a people in whom all power did originally reside, should so totally and absolutely dispose that to one, which being abused, must without hope of redresse prove their owne inevitable destruction.

I, but saith the Author, *If the King be universis minor, then the people have placed a King, not over, but under them; and they doe ill to petition, when they might command, they may require it from the Prince their subject.*

The King is *universis minor*, lesse than the Publike, but he is *singulis major* over and above all individuals; and therefore the Author in this doth not much mistake himselfe; for that undutifull and dishonourable passage, of commanding of his Majestie, and of making him our subject, I wish withall my soule, that the Author of this booke and his associates, were not more guilty of this, then his Parliament could ever Parliament or people, with more submissivenesse, pray or petition his Majestie, than we have done? or can any preceding ages produce an example of greater humilitie and loyalty to their Sovereigne? but to passe this, we shall ever count it our dutie to petition, and acknowledge our King while others, though not in words, yet in heart disclaime him.

The Author saith, *His Majestie doth most freely acknowledge, and will constantly maintaine what ever right the Law doth give us; yet he is not bound to be ray his owne.*

Happy England if this were made good untous. I doe not question his royall heart, I believe it to be full of piety and truth: but it is you and your Complices that have divided him from his people, and made him act a part cleane contrary to his pious disposition: obtruding the rights and liberties of his subjects, in not defending the power and priviledges of Parliament, in taking up of Armes against his people, thereby to enforce that, which law and right proclaimes unjust; but I presse this no further. Happy state, when that prerogative and subjects liberty doe not invade each other. But let this receive a right construction: if prerogative be abused to the endangering of the State, tis no betraying of his Majesties right, to bee ruled by the Counsell of his Parliament, for the securing of his people.

No dissolution ought to be of rule conveyed by the consent of societies, into such and such hands, but by the same power by which it had its constitution. Obs.

The Author by a needlesse endeavour, would faine have us rightly understand this, for saith he, *where a man doth by donation or promise part with any thing, he cannot challenge it as his due upon his repentance; for that it would be to the injury of another:* For saith hee, *where there are two parties to the contract, as in case of Aristocracy and Monarchy, there the people cannot dissolve their government without the one, or those few consent.* Ans.

For my part I doe not believe that ever the Observator intended to attribute such a power to the people, as is here seemingly insinuated out of his words, by the author: for to say that no other power may abrogate, but that which did constitute, doth not inevitably conclude, that they in all cases may doe it, therefore the author might well have saved his labour. Rep.

It were strange if the people subjecting it selfe to command, should aime at any thing but its owne good, in the first and last place. Obs.

After the Author had confessed this, yet saith he, for that the people could not attaine this, without a common protector to administer justice equally amongst them, they found it necessary in a higher degree to provide for his good, in recompence of their securitie, &c. and so concludes, that the good of either is mutually involved, and that the people may be happy, they must first provide for the happinesse of their Ruler. Ans.

That the good of both hath a mutuall dependance upon each other no doubt, but that the constitution of government, was primarily and principally for the good of the people, thats as cleare, and therefore that ought first to be intended. Rep.

The Author charges the Observator, with breaking out into a most scandalous and false invective against the late government, and this he counts unworthy of any answer.

Could he give any answer we should be sure to have it, but what he cannot answer, hee

cannot answer, he can by some sophistical flight evade, or els tell you, (as here) that it is false, though the lye reflect upon himselfe; but he may (without offence) give it to himselfe, as he doth in the very words following, by which he confesses, that the Subject groaned under some grievances.

If I should have demanded of the Author before Parliament (granting he were not one who added to the burden) whether that the Kingdom were not even ready to sink and faint away under those heave pressures of Monopolies, Ship-mony, Cote and conduct money, and the like (most illegall charges, such as our Ancestors never knew) I am confident that hee would have answered me in the affirmative, and have further added, that the body politike must die, if that a Parliament did not interpose for the securing of it; and are these now become false and scandalous invectives? tis very strange that the Author should so suddenly forget Gods goodnesse and mercy towards us, in this Parliament, as not only to forget the blessing, but even to deny the benefit: for hee saith,

We owe it to the goodnesse of his Majesty, that we are free, even from the feare of them for the future.

No respect at all is to be had of the Parliament, as if they were not so much as instruments in the conveyance of this mercy: tis pitty that he should share in the blessing, that will not acknowledge the hand that conveyed it. We shall ever with all humilitie acknowledge his Majesties goodnesse and grace towards us this Parliament, in taking off those unjust burdens that pressed our shoulders; and yet not forget our Worthies: and by the way, let me say this; he that layes an unjust burden upon me, and after long suffering, binds himselfe to ease me of it for the future, as it is no restitution or recompence for the evill already undergone, so he doth no more then what the Law of God and an upright conscience ties him to.

I but saith the Author, *Compare us to any other Nation in the Christian world, we in our worst times, were least unhappy.*

A strange reason, that because other Nations are not so happy as wee, perchance out of defect of their Government, or themselves, that therefore wee must enslave our selves to be like them: I feare this is the labour of the time, to reduce us to their condition; and I hope this will be our care, not to be content with a comparative happiness only, but to labour to maintaine our ancient rights and priviledges.

Again the Author saith, *that he shall not endeavour to excuse the former times, by comparison with our present miseries: though neither be desirable, yet we are too sensible, which we have justest reason to complaine of.*

Tis certaine that no evill is desirable, but yet if Fate decree it, let me suffer under the hand of justice, rather than of wrong and oppression. Besides desperate diseases, must have desperate cures, if these times bring greater misery than the former, thanks be to the Author and his confederates; the publike calamity now, is but the sad effect of that before. Had we freely enjoyed our birth-right and inheritance then, there would not have beene this civill combustion now: bad premisses must have bad conclusions.

Obs.

I hope under this word (protect) the King intends not only to shield us from all kinde of evill, but to promote us also to all kinde of Polyticall happinesse, according to his utmost devoyre.

Ans.

Saith the Author, *I never did apprehend in the word (protect) his large notion. Every particular subject hath a just title, and may challenge an interest in whatsoever is meant by the word protection: is the King therefore bound to promote every particular person to all kinds of politicall happinesse? to advance all to honours, offices, power, command?*

Rep.

I wonder how you can now apprehend this word (protect) under so large a notion: or is it possible (were you not resolved to cavill) that these words should give you ground for it? certainly (if my reason faile me not) politicall happinesse hath reference only to the body politike, and that is not capable of any advancement, to any honour, office, or power, and to take the words in other sense were to make them impossible, for can it be thought or expected that his Majestie should be bound to advance all his Subjects to places of honor or power? since if all should be in authority they might command themselves, there would be none left to obey. The sense of the Observer is plainly this, that the King by this word *protect*

is.

is not only to intend a shielding us from all evil, but likewise a promoting of the common wealth to all kinde of politicall happinesse: by endeavouring to enrich; not impoverish his Kingdom by maintaining peace, and establishing good and wholesome laws amongst his people, and by putting of such in place of power and authority, that may see the due execution of the same.

Though all single persons ought to looke upon the late Bills passed by the King, as matters of grace, with all thankfulness and humility, yet the King himselfe, looking upon the whole State, ought to acknowledge that he cannot merit of it &c. all hath proceeded but from his meere duty. Obs.

It was believed heretofore (saith the Author) the greatest happinesse of a Prince, that he was able, and his greatest glory, to be willing to oblige his people. But now he is made not capable of doing any courtesie. When he hath done all he can, he hath discharged the duty of a trusty servant. Ans.

Whatsoever hath bene or could be attributed to any Prince in point of grace or humble acknowledgement, that we ascribe unto our gracious Sovereigne, with all humilitie: and we shall alwayes account it our happinesse, to have a Prince not only able, but willing to engage his people by his grace and goodnesse; But must it therefore be thought to be a dishonour or derogation from his gracious and publike favours, to say, that hee doth but *fungi officio*, discharge his office, or duty, according as the law of God and man obligeth him? certainly had *Rhehoboams* Sages thought that their Councell had carryed the least badge of irreverence or disrespect to their Prince, they would not have advised him in such rough and unacceptable language, that if he would be a servant to that people and serve them, &c. that then they would be his servants for ever. Good Princes have acknowledged themselves servants to the common wealth. And tis the councell of young men only that suggest the contrary. But it is a certaine position, that that Prince will never discharge his trust aright, that sacrifices too much to his Royaltie. Here the Author may see, that other ages have bene guilty of the like irreverence and disrespect (as this Sycophantean Courtier is pleased to stile it) to Princes. Rep.

Again he saith, That if all single persons ought to looke upon the late Bills passed by the King, as matters of grace. Obs.

Then they truly are so, for no obligation can lye upon any man, to believe things otherwise than they are. Ans.

Tis true, things that are simply good, or simply evil, cannot be varied by circumstances; & and therefore no obligation may constrain a man to believe them otherwise. But that which is not in it selfe good or bad, but varies according to its severall object; in such case, for one and the same act to produce good to one, and ill to another, is no novelty: and here the application denominates the action. So in this case, one and the same action may be matter of grace to one, and yet but matter of duty to another. As when a Iudge doth Justice to a man, as to him tis grace and favour, but with reference to the law, tis but his dutie. Rep.

I but he saith, *That this ground destroyes the power of beneficence in a Prince, and the duty of gratitude in subjects.*

Under favour nothing lesse: for as it is his Maiesties office and duty by all meanes of grace and favour, as also by justice and right, to endeavour the happinesse of the common Wealth; so it is our duty by all meanes of humble acknowledgement, to bee gratefull, tis a great mercy for to have a Prince that will governe his people according to Law and right. And it were a great judgement, for the people not to bee thankfull.

The King ought not to account that a profit, or strength to him which is a losse and wasting to the people, nor ought hee to thinke that perisht to him, which is gained to the people. Obs.

By the same Argument the people may share all that he hath, and he is bound to believe that he hath lost nothing. Ans.

All that the observator here drives at, is but this, that the Kings strength and riches, are imbarcked in the happinesse and prosperity of his people; and therefore that it is Rep.

not their debilitating or impoverishing, that will any way fortifie, or enrich his Majestie, but the contrary; Blest be the King in his portion, may it increase to nonplus Arithmetick, and his dayes, time: But yet let him know, that the misery or happinesse of his people are by way of reflection made his.

If King and people have severall rights (saith the Author) *what law is there which binds the King suo jure cedere, and enables the people to preserve their rights, nay to challenge his?*

No doubt the King and people have severall rights (happy State; when they doe not intrench upon each other) but in this they vary; the King, for the most part, is seized or possessed *in jure canonæ*, and the people in their owne right: so that the King hath not that absolutenesse of property, that the people hath: And no doubt the King at first (as it is before acknowledged by the Author) received his demelnes from his people, as a recompence of his care, to whom they owed their securitie; and therefore if it were law for either, no question the people might most colourably justifie an incroachment. Againe the King by the Law of God and man is bound to doe justice, and to protect and defend his people: and therefore if he have any right or priviledge that is inconsistent with these, he is obliged *suo jure cedere*. But againe, doth any one goe about to take away the Kings right, or to divest any property of his? Nay rather doe they not in defect of his Majestie, and in his right, imploy and mannage them according to the trust reposed in him; or if they did doe it, ought not the King rather to loose his right or priviledge, then that the publike perish or be destroyed?

Regall dignity was erected to preserve the comminallty: But that which is the end is farre more honourable and valuable in nature, and policy, then that which is the meanes.

The conclusion implied is, therefore the commons more honourable than the Sovereigne.

Tis no dishonour to his Majestie, for to say, that the comminalltie or body politique is more honourable than he: did he not receive his dignitie from them, and for their behalfs is he not a servant to the Common-wealth? and is not the common wealth of greater valuation and esteeme? I, that the author doth agree too, but he saith, it doth not follow, that therefore it is more honourable. Pray what is honour? but the estimate and repute of people, so that every man is more or lesse honourable, according to the greater or lesser valuation and esteeme, that he is had in with the people. *Honor est magis in honorante, quam in honorato*, and no doubt the publike good carries the greatest price and estimate, therefore the more honourable. I, but saith the Author, how doe you maintaine your Argument: That because the end is more honourable and valuable than the means, therefore the comminalltie is more honourable than the king. For saith he, *Angels are ministering spirits for the good of men, but will it therefore follow, that because the end is more honourable than the meanes, that men are more honourable than the Angels.* So saith hee, *Christ is made the head of the Church, for the salvation of man, and because the end is more honourable and valuable than the meanes, can it therefore be, that man is more honourable and valuable than Christ?*

These cases may receive a short answer, for whereas the Author is pleased to say, that the highest end of Angels ministration, and the obedience of Christ, is the glory of God; under favour it is the proximate end, and so it is not in government, more than in other humane acts or constitutions: so that these cases conclude for us, not against us; but admitting that they could hold, this is a strange way of reasoning, *a particularibus ad universalis*, that because a rule will not stand in one particular case, that therefore it will in no other; allow me but this liberty in dispute, and I will quickly overthrow, or maintaine the case in question: as for example, Preaching is the meanes of the salvation of mens soules, is not the end here more honourable and valuable than the meanes? So poore and sordid labour may raise a man to great riches and preferment, and is not the end here, more honourable and valuable than the meanes. Now for me to conclude from these cases, to the case in debate you would say were a very fallacious Argument, turne but the scales, the case is your own.

But the Author saith, that *This rule doth hold in such meanes as are onely valuable by that relation they beare unto their ends, and have no proper goodnesse of their owne, but a King is not so to his people.*

The creatures were made for mans sustinence, and here no question, the end is more honourable and valuable than the meanes, and yet we must not deny a proper goodnesse in the

Obs.

Ans.

Rep.

the creature. So the word of God preached is good in it selfe, and yet here the end is more honourable than the meanes. So the King might be an honourable person in himself which the superaddition of Royaltie doth not destroy, but encrease, and yet withall this, being but the meanes to preserve the communitie, may bee lesse honourable and valuable than they who are the end of his Royaltie.

This directs us to the transcendent dignity of all politicks, to the Paramount Law that shall give law to all humane lawes whatsoever, and that is salus populi. Obj.

How many nations hath this abused principle brought to ruine and confusion. Ans.

He instances in none; but would subtilly insinuate such things into your beliefs, that might make you to feare your present condition; but if phantasmes or chymeraes have vainely frightened others, happily out of their wits, shall not wee therefore wisely secure out selves from apparent and visible dangers? the abuse of a good thing, doth no way conclude against the lawfull use. But after he had agreed this to be the end of all government, hee holds it without doubt, that Governours proportion all their laws to that end; for (saith he) *who that is wise, will not provide for their safety as well as hee can, in whose destruction his owne is involved.* Rep.

I wish from my very soule that this were duly pondered on, *salus Regis et populi*, lye now at stake for a triffe, and as like to be lost without the King, by the advice of his great Councell, be pleased, *providere salvationi regni sui*. Gracious Sovereigne, suffer not your people (and in them your owne honour and happinesse) to dye, who (God knowes) seek nothing but the maintenance and preservation of both.

Well, after this, the Author tels us of a crafty kind of people (who hee means, God knowes, for I believe he himselfe doth not) who by faire glosses and pretences insinuate themselves into the hearts of the multitude, *who pity their sufferings, and tell them, they are not so well governed as they might be*; these things if applyed to our state and condition, are not bare pretences. And then he instances in the story of Absalon, who stole away the hearts of his fathers subjects, under a pretence of doing of them justice; this Absalon, I feare, is neerer Oxford than London: after he saith, *they promise reformation, and to effect this, desires the peoples assistance*, unhappy people and fit to be inslayed, that will not yeeld their aide for reducing of their ancient liberties. Then, he saith, *the people full of great hopes, cry up these men, as the only fit instruments of state*, none deserve better of the common wealth (let the mouth of malice suggest what it can by way of detraction) then such as have hazarded their lives and fortunes for reducing of its former happinesse; and no instruments so fit as these, that are chosen by publike consent and approbation. Having thus gained the affections of the people, their next worke is to pick a quarrel with great officers, that by displacing them, they make roome for themselves, is that to picke a quarrell with great officers to accuse them legally for their unjust oppression and malignity to the common wealth? and if they chance to be expulled (though it seldome prove so) as justice requireth, where can you find their accusers in their roome? which possibly might have beene had they desired it. Then he saith, *if these men will not out of their preferments, the people are acquainted, these are the only ribs, which oppose a happy government*; these are the close enemies to the State. Nowonder if the people be so informed; those that have beene before the oppressors of the Common wealth, will, rather than suffer their actions to come to the test, prove even the destroyers of it. And is not *salus populi* now concerned, and the whole Kingdome in danger and (to use his owne words, though with more reall intention) no way to escape this imminent perill but by tearing of these men from the Prince; who endeavour to rent the King from his people, and utterly to destroy both. After all this large and darke discourse, hee concludes by way of advise; and what is that? why wholesome counsell, I warrant you. Let them (saith he) rely upon their Governours, who have most to loose (especially if they have given them great and late signes of their affection to and care of them, this is the most probable way of safety. I marry sir, this is good doctrine indeed: because another will hazzard his fortune, which is greater; must I therefore expose mine to ruine, which is lesse: but stay, hath any one individuall, a greater portion than the publike? or more to loose than the body politicke? if so, we will intrust our store with him, and runne the hazzard; if otherwise, you will give us leave to secure the greater, and more considerable portion. And under the Authors favour, tis no probable way of safety, for a man to entrust himselfe with his enemy. I but then heare what he saith immediately after the precedent words, *if they should*

(should miscary (saith he) which they can have no reason to suspect) they would perish with a great deal of discretion. The Law of God, of Nature, of Nations, and the Municipall Law of the Land, doe all inab'e a man to maintaine his life and fortunes, though by force and violence. And can it then be thought that a whole Kingdome and people should bee bound (under I know not what divine obligation) to yeeld themselves as a pray to the malice of their enemies? Tis not the bond of Governours, that can challenge a submission to things unlawfull: and for that cause, that I am not bound to obey, it were unnaturall, if I might not defend: and therefore with the Authors favour, it were high sin and indiscretion for me to loose my life, when I might save it.

Obs.

It seemes unnaturall to me, that any Nation should be bound to contribute its owne inherent puissance, meere to abet tyranny, and support slavery.

Ans.

The inconveniences of Tyranny conclude nothing against just Monarchs.

Rep.

That is true, I but what if a just Monarch shall degenerate into a tyrant? then I perceive you will allow, that the inconveniences of Tyranny conclude somewhat. I but, saith the author, *It is so far from being unnaturall, that any nation should be bound to contribute its power to that end, that some have made it their choice, others their refuge.* What, to be made slaves? most unreasonable, most unnaturall. All creatures (much more man) doe by nature desire liberty. Tis that we were all borne to; and as he doth oppugne nature, so hee waves part of his right and inheritance, that consents to thralldome. No temporall blessing next to life, greater than an ample freedome; No greater misery, than a vile and fordid slavery. I but what if the Authors position hold true? that some Nations have so far degenerated as to exchange a Palace for a Prison (though perchance that by force too) as the State of Rome, Turkey, and France; must their examples be precidents for us? or is it any whit the lesse unnaturall because they doe it? I but the Author saith, *There may bee reasonable motives why a people should consent to slavery; as if in danger of a potent enemy, they could bide none on gentler conditions, to undertake their defence, or if reduced to extreme want, they had not wherewith to sustaine themselves, they may very probably, like Esau, passe away their birth-right, liberty: and he gives you an instance of both these, of the first, the Gibeonites to the Children of Israel: and of the last, the Egyptians to Pharaoh.* Tis an old and true saying, that necessity hath no law; the law of nature bindes every man to defend and maintaine his libertie, but necessity may untie this bond; for it is better to be, though miserable, then not to be at all. But now to conclude from a case of necessity, to a case out of necessity, is no good reasoning. To say that to save my life, I may part with my liberty; and therefore like Esau with his birth-right, I may passe it away for a messe of pottage; this is a most foolish and unreasonable argument. To conclude this, freedome, as it is a great mercy, so it ought of temporall blessings, next to our lives, to receive the greatest estimate; the slavery of the body is the lesser to the thralldome of conscience; and if we foolishly surrender up this, the other will not be long after.

Obs.

From the word (trust) used by his Majestie, he gathers, the King doth admit his interest in the Crowne in part conditionate.

Ans.

No ground for this collection: for there may be a trust, and that is so much the greater, if free from condition.

Rep.

Under the Authors favour the collection is very naturall; for (as I have shewen before) every trust implyeth a condition; that the party intrusted faithfully discharge and execute that trust that is reposed in him: and did not the King accept his crowne upon the same condition? Besides, all offices of trust and confidence, or that concerne the administration of justice (as Lawyers well know) carry a long with them a tacit condition; and the office of a King, hath those qualifications in the most superlative degree, of any other, and therefore must of necessity be conditionate. But the Author saith, *That this is true in some sense, and his Majestie hath alwayes acknowledged, he is bound to maintain the rights and liberty of the Subject: yet we must not so understand it, as if the right to his Kingdom were so conditionate, that it were capable of forfeiture upon a not exact performance of covenant.* It can never be thought with any candid and faire interpretation, that the Observators intention was, that the King might, for breach of this condition, forfeit his crowne; for it is cleare that the not executing of a trust, doth not forfeit the estate or interest intrusted: besides tis regularly true in our law, that that which is not grantable, is not forfeitable: but the crown is not grantable, *ergo*, &c. But that which most confirms me in this, is, that the Observer hath in part declared his judgement against the opinion of deposing Brin'es, which I conceive he would

not

not have done, had he thought the crown forfeitable; all that he intends (if I may be thought fit to be his expositor) is (as I suppose) but this, that he would not have Kings have an absolute and unquestionable power, so that their exorbitancy might not (though with greater happiness to the Common wealch) be regulated by a Parliament.

As for the word (elegerit) whether it be future or past it shews not much.

Obs.

If he take notice of the conclusion deduced thence, he may finde as much difference between the senses, as betwene Democracy and Monarchy.

Ans.

Give me leave to make the Premisses, and doe you raise what conclusion you will. The Observator (who knew certainly to distinguish the Tenses as well as the Author) seems to intend only thus much, that if *elegerit* be taken in the future tense, well and good; it makes for him; for then the King (according to the very letter of his oath) is bound under the heavy sinne of perjury to grant such lawes as are requested of him by his people; and then hee can have no negative voyce. But admitting it be expounded in the preterperfect tense, and not in the future; why yet saith the Observator, it matters not: for by the oath and the Law of the land the king is bound to do justice; and the granting of new laws unto his people upon their request, is an act of justice, & necessary as well as the dispensing of the old, & therefore there being the same necessity, the publike trust must needs equally extend to both. But the Aethor will shew us, why *elegerit*, must of necessity bee taken in the preterperfect tense, not in the future, as this case is, for saith he, *the word (consuetudines) which cannot referre to the future, undenyably evinces, it was meant of the time past.* Under favour this doth not infallibly conclude that *elegerit* must be taken in the preterperfect tense, for so more then the King can grant such customes as the people shall chuse, for that it must be time, not the Kings Patent, that can create a custome; so neither can the King grant such lawes or customes unto a people, which they have already chosen, and which have beene established and ratified unto them, by all his predecessors; for *quod semel meum est ultra meum esse non potest*, that which is mine owne already cannot be given unto me. So that the oath must bee construed, *reddendo singula singulis*, as we say in law; that is, that he will confirme their ancient customes which they doe already enjoy, and that he will grant unto them such new laws as they shall hereafter make choyce of: other reasonable construction the oath will not admit of, and agreeing with this exposition is the first clause of his Magistries oath, where demand is made whether his Majestie will grant and co firm unto his people their ancient lawes and customes, who answers that he will. And contrary to that which the Author doth assert, the Parliament have made it clear and manifest by their declaration lately published, how that *elegerit* hath beene alwayes rendered in the future tense, and not in the preterperfect tense. So that I shall passe this over without any further trouble, conceaving that the Author may (if he have not resolved to the contrary) upon these grounds be fully convinced in this particular.

Rep.

The King is bound to consent to new Lawes, if they be necessary, as well as defend the old.

His Majestie never thought otherwise; but he is not bound to an implicit faith, to believe all necessary which is pretended to be so.

Obs.

Ans.

This is in plaine termes to invert the method, for the King to chuse Lawes not the people: for if he will consent to none (be they of never so great necessity) but such as hee himselfe holds convenient, what then is become of the peoples election? this is to prescribe and enforce lawes upon the people, not to consent to them upon their election. Besides, who so proper a judge of the necessity or conveniency of a publike law as the republike? those that know the want of the benefit, must needs be most sensible of the necessity.

Rep.

The word elegerit; if it be in the preterperfect tense, yet shewes, that the peoples election had beene the ground of ancient lawes and customes; and why the peoples election in Parliament should not be now of as great moment as ever, I cannot discover.

Obs.

The election there spoken of, is the election of the diffusive, not of any representative body, that with the tacit consent of the Prince, and so of much other authority.

Ans.

Under favour it is of no other authority, for though it should be confessed that at first the diffusive body did chuse their Lawes, which had the tacit consent of the Prince, and that since the people have granted the King a negative voyce in his Parliaments, which is the representative body of the Kingdome, yet being with this qualification, that his Majesty grant all necessary lawes desired by the people, hence it follows, that the representative body (having as great power, and as good judgement, to discern of laws necessary, as the diffusive) have the same power of election, which ought to be of as great moment and consequence as ever.

Rep.

For the representative, their ancient right is not denied, no law shall be abrogated, none enacted without their assent. But there is a meane betweene doing nothing, and all.

I wonder at the Author that he dare utter such palpable and knowne falsities. How often have the privileges of Parliament beene infringed? even to amazement and wonder, that all foregoing ages cannot produce the like; and is there not an illegal commission of Array, (though not enacted) yet ordained, and set up in opposition to the Parliament. But which is yet above all, and strikes at their very essence, are they not (because others doe neglect their duty, and the trust reposed in them by the publike) denied even the very name of a Parliament, and therein the power and vertue of it? and whether this be not a denying of their right, let the world judge. The Author saith true, that there is a meane betweene doing nothing and all. But I would faine know how we shall be assured of this meane, if his Majestie (upon pretence of unnecessary) shall have power to deny whatsoever is requested by the Parliament?

Obs.

The result of all is, Our Kings cannot be said to have so unconditionate and high a propriety in all the subjects, lives, liberties, and possessions, or in any thing else, to the Crowne appertaining, as subjects have in the Kings dignitie.

Ans.

The Author saith, That what should be meant by subjects having an unconditionate and high propriety in the Kings dignitie, surpasses his understanding.

Rep.

Had not the Author loved division, he would not have thus severed the Observators words, thereby to put a dilemma upon himselfe, and others; for the Observer saith before, that the King was made for the people, and not the people for the King, and thence raiseth this conclusion (which under favour is very naturall) that therefore the King hath not that absolute right of property in the people and their interest, as they have in his Majestie and his possession. and now will any man (except our Author who understands not) deny this for a truth?

I burke saith, it seemes to speake this wicked doctrine, that subjects may dispose of the Sovereignty as they please.

'Tis strange that our Author will passe his judgement (especially so severe an one) upon any thing that he doth not understand: because happily it may conclude thus much, that his sacred person and his actions ought to be directed and ruled by his great councill the Parliament; which therefore thence be deduced, that they may dispose of his Sovereignty at pleasure; this is the Authors meaning, not ours.

Obs.

If the King had such high right as subjects, it were not lawfull, or naturall for him to expose his life and fortune for his country.

Ans.

How is it lawfull for subjects then to doe so?

Rep.

What a strange quare is this; is it not lawfull for a man, by the hazzard of his person, to defend his property? which cannot be maintained without the defense of his Countrey. But this doth no way prove that if the Kings right were as absolute as the subjects, that he might expose his life and fortune for their defence: for no doubt hee that loose his life when he might have saved it is a man-slayer; and if the people had beene made for the King, not the King for the people, what Law could have warranted the hazzarding of his person, for the preservation of the King? But to disprove this conclusion, he saith, That the people have as great, nay greater obligation of exposing their lives for the King, and this he makes good by the oath of Fealty taken at the Coronation, which saith, that I become your Leige of life and goods, &c. as also by the Protestation and oath of Ligeance which are to the same effect. He is no true subject, that will not expose himselfe and all that he hath, for the preservation of his King and Sovereigne, we shall ever acknowledge that strong tie and obligation, that lyeth upon us to doe it. But yet we must believe that the Kings oath, and the Law of the Land (which engage the King to protect and defend his Kingdome and people) are equally obligatory.

Obs.

After that the Observer had shewen the efficient cause of Parliament to wit the people, and the finall cause safety and libertie, he descends to this,

Ans.

Two things (saith he) especially are aimed at in Parliaments, not to be attained to by other means; that the interest of the people might be satisfied, and Kings better counselled.

Rep.

Not so easily attained indeed, but certainly, many Kingdomes have enjoyed a most high degree of civill happinesse under Arbitrary Monarchs, who knew no Parliaments.

This possibly may be true; but I hope it shall not insinuate into the hearts of English sub-

Subjects any whit the greater a Section to ch at kind of Government; I believe indeede that this is that the Author would taine perswade us to; These are the maine grounds of the sad division our Religion and our Parliaments: God enable us to maintain both; for if we part with either, we shake hands and bid adieu to all happinesse. The Author saith that *two other ends might have beene named as essentiall as the former, which are to supply his Majesties wants by Subsidies, and assent to the abrogation of old Lawes, and enacting new.*] The latter I much agree to be so, but I never heard before, that the supplying of his Majesties wants by Subsidies, was one of the essentiall ends of the calling of Parliament. It was accounted formerly the maine end of calling of a Parliament, the ease or Reliefe of the subject, and the granting of Subsidies was then esteemed but as a congratulation or thankfull acknowledgement of the Kings grace and favour towards them in this Parliament; and is it now become one of the maine ends? I suppose the Author speaks out of a late experience; 'Twas never happy with England since this Law was broached. And wheresoever Kings advance their owne profit, or but make it equall with that of the publique, the people will never enjoy true happinesse.

In the Summes of Edward 1. (claus. 7. in 3. dors.) we see the first end of Parliaments expressed: for he inserts in the writt, *quod whatsoever affaie is of publique concernment, ought to receive publique approbation, Quod omnes tangit, ab omnibus approbari debet & tractari.*] The Author tells us that this must be understood with due caution; lest wee reduce our selves to our primitive estate, by dissolving the bonds of Government; and therefore saith he, the policie of all estates for the avoyding of all confusion hath been so leave the transaction of publique affaires, to some certaine number, and their suffrages doe in Law binde the rest; So saith he in absolute Monarchies what Princes doe is legally the act of all; and hee makes the result of all to be this, *Those things which the Law doth require, shall be transacted onely by Parliament, the people doe handle and approve of by their Knights and Burgeses: those things which the Law hath intrusted the King with (many of which concerne the good of the whole) what hee doth is their act.*

Obfer.

Ans.

Rep

I shall not with our Author dare to confine Parliaments, whose power is vaste and incognit as my Lord Cooke speaks: And yet I shall not ascribe so unlimited a power unto them, as to give them jurisdiction in all cases. (They themselves who best know their power) have in their late Declaration protested against it; for they say, they have power of jurisdiction of declaring the law in peticular cases before them; then, not in all cases: But who shall bee judge of those cases, by which they are intuled to jurisdiction? can there be any one a Competent Judge of this, but themselves? and they having past their judgement, who ought or dare to contradict it? no reverfing of their judgement, but by the judgement of a subsequent Parliament; why then since none can know their power, or if they could, they are not competent Judges of it; how dare any one goe about, to dispute their power of call in question their judgement? The desire of the Commons, in the Raigne of Edw. 3. was, that they might not advise in things *de quibus ille nonnulli per cognoscunt*, the matter in debate then concerning the setting of intestine commotions, guarding the Marches in Scotland and the Seas; concludes no more than this, that they thought themselves not competent Counsellours in this case (happily by reason of their unskillnesse in that way, or for that the King had then more able Counsellors to advise with in that matter) which under favour is no renouncing of jurisdiction. But to give a more full and satisfactory answer, at that time the King complied with his Parliament, and would not be advised by others, and then these being no breach of trust, there was the lesse reason for the Parliament to advise or intermeddle with affaires of that nature; But if the King had then deserted the Counsell of his Parliament, and cleaved to the advise of his young men like Rehoboam, certainly then they would not have deserted their power in danger of the Common-wealth, which by their writt and their oathes, they are bound to preserve and defend, and therefore clearly not out of their cognizance; for that passage in the Diary of 1. Hen. 4. I wonder the Author should so farre forget himselfe, as to think that authority of any moment; when he doth produce the Record, I will then give him an answer. So that I take this as an undeniable position, that where the King doth duely execute the trust reposed in him, there the people are bound by his act, and the Parliament in such case have no cognizance or jurisdiction: But if on the contrary the King infringe his trust to the endangering of the Kingdom, there the Parliament may & are bound to interpose for the securing of the King & people.

The Author will not passe over this rule thus; for saith he, *quod omnes tangit, ab omnibus approbari debet; with what equity then may the Clergie, who are a considerable part of this Kingdom be excluded?* Why yes, by the same equity, that the Statute of 21. Hen. 8. doth exclude them from being Farmers; that those who have devoted themselves soly to Gods service, might not *miscere se secularibus negotijs*, incumber themselves with secular affaires, for that this would be an impediment to the execution of their sacred function; 'Twas never happy with this Na-

then since pride and covetousness to possessed the Clergie; and temporall jurisdiction was dispensed by Ecclesiasticall persons: And since they proved better Lawyers than Divines, they starved their focke, and made them more like wolves, than Sheepe, and Heathens than Christians: I wish they would not desire temporall preferment, but keepe themselves (as they ought) in their proper Sphere, & ponder on this, that it is no small happines to be exempted from State cares & molestations; & that it is the greatest honour to be the servant of God.

The Author saith that the King tells them, their writt may direct them to know their power, which is to counsell, not to command. I wish with all my heart, that he and his associates could pleade as cleare a conscience from this, as his Parliament can, though certainly they may make a more colourable pretence to it, than the Cavaliers; if begging and intreating with all the submissivenesse that possibly can begbe a commanding, then are the Parliament highly guilty if it, otherwise not. Againe saith the Author, the writt runnes, *super dubijs negotijs, tractaturi, vestrumque consilium impensari*; So that the cleare meaning is, their advise is not law, except the Royall assent established it into an Act. If the Author please but to advise with the learned, he will finde that, *tractare*, is of a more large signification than to treat of or debate onely. But was it ever said, that their advise should be Law without the Regall assent? They have power to declare what the law of the land is, in case of publique concernement, as now, but it was never so much as thought on, that they could make a new law, or alter the old, without his Majestie; We must distinguish betweene the declaring or adjudging of a new case by the reason of the old law, and the making of a new law; the one they may doe without his Majesties consent, the other they cannot.

'Tis alledged that the King calleth them Counsellors, not in all things, but in *quibusdam arduis*, &c. and the case of *Wentworth* is cited by his Majestie, who being a member of the House of Commons, was committed, by *Queen Elizabeth* but for proposing, they might advise the *Queen* in a matter the thought they had nothing to doe to meddle with.

To which the Observer answereth a meere example (though of *Queen Elizabeth*) is no Law.]

'Tis true saith the Author, but when grounded upon Authority, I pray where is it? and no way excepted against by those who have beene atwaies earnest defenders of their priviledges, it may be reckoned among sound presidents.]

Happily there was never the like occasion to except against it, as having never beene urged, how then could it be answered? I am confident, that there was never any age before so guilty of the judging and questioning of the power of Parliaments. But pray heare the Parliament, and as you ought, so rest satisfied, who say, that some Presidents ought not to be rules, this you must agree to, for that some are not lawfull; But further they say, that no presidents can bee bounds to the proceedings of a Parliament, because some ought not to be followed, and all may fall short and be different from the case in question.

The King denies the assembly of the Lords and Commons, when he withdraweth himselfe, to be rightly named a Parliament, or to have any power of any Court, and consequently to be any thing, but a meere convention of so many private men.]

This is falsely imposed on his Majestie, his answers and messages speakes the contrary, which are directed to both Houses of Parliament.]

Had it not beene doubted that other direction might have caused some mistake and miscarriage, or at least have denied others that acceptance, that his Majesties Messages do & serve; I feare some other name and style would have beene found out, for doth he not in these very Messages call them an inconsiderable number, and a company of factious seditious persons and the like? certainly these are not the stiles of a Parliament, and for their power if they can doe nothing without his Majesties consent, and that not to be obtained neither; what are they more than a Cipher? or a meere convention of private men? And is this a falsity? But our Authors language shall not provoke to a retaliation.

The King doth assert, that because the law hath trusted him with a Prerogative to discontinue Parliaments, to the danger or prejudice of the Kingdome, this is no breach of that trust, because in formalitie of Law, the people may not assemble in Parliament, but by his writt.]

This is grosse forgerie, saith the Author, However I am sure the language is grosse; I had no time to search for to disprove the Author, but this I am certaine of, that his Majestie doth strongly urge that prerogative and his power and election thereby, which gives a strong intimation of an intention of absolutenesse of freedome and power therein: But why is it false? because saith the Author, if it appeare to him necessary, or expedient for the Kingdome, he acknowledges, he is obliged by that trust reposed in him to issue out his writts.]

'Tis not to be imagin'd that when the people granted this Prerogative to his Majestie, that they would give him so vast a power, as to make him the sole Judge of the necessitie of a Parliament.

Argument: for if so, upon the pretence of not necessary, and that upon the advice of evil counsellors, be the Kingdom in never so imminent, never so apparent danger, it must be destroyed for want of a Parliament; certainly this was never the intention of this trust: Besides, who can be so competent a Judge of any approaching danger, or of any malignities or pressures in the Common wealth, as they who speak out of the common sense and bumber of them? How ever this is certaine, the Kingdom cannot suffer by a Parliament, it may without.

If the Parliament make any transgression in other matters, than what be pleases to propose, they are liable to imprisonment at his pleasure. Obs.

The sense of his inference is this, that because they cannot justify the meddling with things, which belong not to their cognizance, therefore they may be punished, if they meddle with those that doe. Ans.

This is the Authors inference, not the Observators. He doth not say, that for executing their due power they may be imprisoned, no, such inconsequent conclusions we leave to the Author. But this he seemeth to speake, that it should be very hard and unreasonable, that the power of judging of the jurisdiction and authority of a Parliament should reside only in the Kings breast, when that none can determine aright of them, but themselves; for if so, if the King at any time shall say they exceed their power, they may be imprisoned at pleasure. Rep.

The Author telling the people how farre their engagement goes with the Parliament, saith That if they exceed their Commission, and Vote things not belonging to their cognizance, the people by no meanes is engaged in it, as having no legall way of expressing of themselves in such cases.

This is in plain termes to tell the people, in what cases they are to submit to, and maintain and defend the Parliament; in what not; certainly people cannot be so senseless as to thinke that the illegall acts of a Parliament should bind them; but on the other side, I hope they will not be so foolish as to believe every thing to be illegall, which the Author is pleased to stile so; but rather cast themselves upon their care (as in duty they are bound) which they have entrusted with the publike securitie; But I hope the Author will now be advised, that on the contrary the people are no more engaged in the illegall proceedings of the Prince (in those things that he is intrusted with for the publike) than of the Parliament.

It is impossible (saith the King) that the same trust should be irrevocably committed to us, and our heires for ever, and the same trust, and a power above that trust (for such is the power they pretend to) be committed to others.

It is true (saith the Observer) Two supremacies cannot be in the same sense and respect. Obs.

This is a weak answer saith the Author. Ans.

So weak that the Author cannot reply to it; for nothing is more knowne or assented to than this, that the King is *singulis major*, yet *universis minor*. Rep.

It seemes (sayes the Author) the King hath taken the Oath of Alliegence as well as we, and we may call him our fellow subject.

Did we ever speake of two Kings? or can there be so in one common wealth? But much lesse can there be any alliegence due from the Sovereigne to the Subject; certainly the Author was not himselfe: But to prove his reasoning yet more absurd, we doe not say that the King is *singulis minor*, but that he is *universis minor*, and I hope the universe or body politike, never swore alliegence or supremacy to the King, neither is it possible that it should, for that it is a body only in consideration of Law, that hath neither life, nor motion like other individuals; and therefore not capable of doing of any act in that capacity, so that notwithstanding this shallow reaⁿ, the King is *universis minor*.

I, but saith the Author, You tell us that he is greater than one, you doe not tell us that he is better than two, this is no greater supremacy, than probably he had before he was a King. The Prince is *singulis major* as well as hee, nay, may not any Lord in the Land chal^ege the same supremacy over all the Knights, any Knight over all Esquires?

What a poore and senseless cavill is this, doe not we say that he is *universis minor*? and doth it not then consequently follow that we allow him *major* to all that is lesse than the universe? When you can reduce the universe to so small a number as two, then will his Majesty be lesse than those two, untill then he is greater; for those slender instances to prove as great a supremacy in the Prince, nay in every nobleman over all Knights, and in Knights over all Esquires; I must tell him, had not his senses bene ravished by, and swallowed up in Monarchy, he would never have so much forgot himselfe; can there be any one *singulis major* but the King? he that accounts himself so high, deserves to be made lower by the head? the Prince himselfe is not *singulis major*, till he survive his Father. To be short, all others are but comparatively great, the King only is great in the superlative.

I, but to take us off these corrupt glosses (I would there were no more corruption in him-

saith the Author *refers* us to 14. H. 8. c. 12. which (as he saith) steeres the King to be universall major, the profuse of which statute runnes thus; *that this Kingdome hath bene alwayes acknowledged to be an Empire, governed by one supreme head and King, having the dignity and regall estate of the same, unto whom a body politike compact of all sorts and degrees of people &c. been bounden and sworn heart to God, a naturall and humble obedience.*

Doth this prove the King *universall major*? under favour nothing lesse: for wee must not understand this, that the body politike doth owe obedience, but that the severall sorts and degrees of people, of which this body is compacted and made, that they doe owe obedience, for to take it otherwise, were to make an absurd and impossible construction. For as I have said before, how is it possible that a body politike (which is a body only in judgement, of law or contemplation,) that hath neither life, sense, nor motion that that should owe homage or obedience to any one? much lesse a naturall obedience as the Statute speaketh, so that clearly this doth not at all disprove the former position.

If there were no King at all in England, you would call this government an Aristocracy: and why I beseech you, do you not confesse the name now, seeing the thing is altogether the same? for if they give his voyce, tis all one, as if he had no voyce: if their power must over-rule his, tis all one as if he were divested of all. Certainly Monarchy hath committed a Rape upon the Authors reason and understanding, or els he could not bee thus over-seene. Doth the Parliament go about to take away the Kings voyce, or to disrobe him of his power: more than the knowne law of the land doth approve of? Did they even declare or publish such a power to be in them, that they might enact any new lawes, or abrogate the old, without his Majesties consent? Nay, have they not frequently professed the contrary? why then, what have they done that should have the least colour of intitling them to an Aristocraticall Government? O yes: for they have voted and published it to the world, that the power of declaring law (*sedente Parlamento*) in case of any publike concernment: doth reside in them; and that though the King neither doth, nor will consent, yet he is obliged by their Votes. And is this any greater power or priviledge than every other interior Court hath? or is it more than they themselves formerly without the least scruple have exercised? by declaring law in dubious points of Statutes and erroneous judgements. And is their ancient, undoubted, and unquestionable right now become a power Aristocraticall? Tis strange that the times should so vary the case, and that long enjoyment or possession (which doth usually confirme and strengthen a mans right) should be a means to take it away. But before I passe this over, let me tell the Author, that it is a most idle, scandalous and false aspercion: and if I do in all this wrong him, let hee himselfe judge upon his owne inference, which is this, that the defending and maintaining of the ancient right and government, is a labouring for an introducing of a new, and if he chance to blush (as he well may) at his own insequent reasoning, let him mend it hereafter.

I but saith he, I dare say that all Histories and Records (except of such Parliaments which deposed their King, which the Observer confesses no free one ever did) cannot produce an example of this nature, that the two Houses should pretend to a power which must of necessity over-rule the King.

That there is not the least colour of a pretence to such a power, I have before plainly evidenced it. But I pray heare his reason, why this power, as to some respects may not be greater than the King. Because (saith he) since the law hath given the King a power, by dissolving of the Parliament, to take away that power (as is pretended) greater than his owne, if they had ever made claime to superiority over him, he would quickly have put an end to that dispute.

This is in plaine termes to say, that a power that is but temporary, cannot be greater, than that which is continuing and unalterable: a strange fallacy, why, if the King make one high Constable of England *ad beneplacitum*, (whom we know hath a power very extensive) shall we conclude that his dignity or authority is inferior to others of lesse qualitie and esteeme, because dissolvable at the Kings pleasure? Or if the King conferre the dignitie and Office of Lord Keeper to another, by committing of the seale unto his custody, is he therefore not superior to the rest of the Nobility because removable at his Majesties will and discretion? an absurditie to thinke it.

Before this power be challinged, it would be fit to vote down that clause in a law, made 2 H. 5 cited by his Majesty, That it is of the Kings regality to grant or deny such of their petitions; as pleaseth himselfe.

For that this is said to be cited by his Majesty, I shall not question the truth of it, though I have searched the Statutes, and I cannot find any such clause; But admitting it to be so, did ever any one make a question whether that there were such a Prerogative in *rerum natura*, as the Kings negative voyce? certainly not. The matter in debate is whether it be so absolute and un-

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circumscribed, that the Parliament can doe nothing, no, not so much as declare what the common law is, without his Majesties consent, or whether it be bound and limited; So that this great and most supreme Court may not be like a body without a soule, or a numberlesse cypher: And for tha. of the Statute, that he may deny their petitions, can you thence deduce, that he may deny their rights? their right of declaring law in case of publike concernment, is not involved within the narrow compasse of a petition.

To the most absolute Empire in the world, this condition is most naturall and necessary, that the safety of the people is to be valued above any right of his.

It is against common sense to suppose a King that is in his wits, who will not provide for the safety of his people; nay, who will not part with some of his right, rather than they should perish, because in their destruction he loseth all.

I would to God that sad experience did not inform us that you speak severall languages, one thing to us, another to his Majesty, if it were not so, the setting of the Militia by his Parliament, by reason of the abuse of that trust, to the endangering of the Kingdom, by the advice of ill affected counsellors, would not have caused this great combustion. I, but then the Author saith. *This doth not prove a King should part with his rights, as often as they will pretend to be in danger.* Nor can it be thought reasonable, if that a Parliament, and in that a whole kingdom can use pretences. Was ever age guilty of such disrespectts to a Parliament? *If this were once admitted, what wild plots would be invented? what strange intelligence would be received from invisible spies.* Strange! that a Parliament should fancy and invent miseries to themselves, and should thus frighten the publike with Phantasmes or Chimæras. I hope the Author will prove it by experience, that it is not so easie a matter to deceive a whole Common wealth. I (saith he) *and so often as crafty men were ambitious or covetous, so often the silly people were to be frightened.* More strange yet! that ambition and covetousnesse should at once possesse a whole Parliament; and that a whole Common-wealth should be accounted but a silly people, so easie to be wrought upon. I hope this disparagement to the publike will work an answerable acceptance to the people.

Since all naturall power is in those who obey, they which contract to obey to their owne ruine, or having so contracted, they which esteeme such a contract before their owne preservation are felonious to themselves and rebellious to nature.

For example (says the Author, an agreement patiently to submit themselves to the Ordinary tryall of law, and to suffer, if it should so fall out, though under an undeserved sentence. In this case bee that doth not make resistance, and prerr his preservation to his contract is pronounced Felo de se, and a rebell to nature.

And he puts other examples of the like nature, as that of the Martyrs, and of our Saviour Christ, and demands our thoughts of them, whether they were selfe murderers or no?

What a strange affected mistake is this of the Author, can there be the least colourable inference out of what the Observer hath delivered, to justify any individuall opposition and infringement of contract? or to make good an innocents oppugning of the sword of Justice, to rescue his owne life? I dare confidently affirme, not the least title to this purpose. No; a man ought to discharge his Covenant though it be to his disadvantage. And *ruat Cælum, fiat justitia*, though heaven it selfe (if it were possible) should be destroyed, yet let justice flourish. That were a way to open a gap for all disorder and breach of rule and society, without which no common wealth can be of long subsistence. If thou suffer unjustly, God will abundantly remunerate thy sufferings, and repay it upon the head of thine enemies; wherefore much better it is for thee to submit to thy censure by patience, than to incur the breach of all society by disobedience.

I, but saith the Author, *If reason will not satisfie, perhaps Christianity may, Qui resistunt potestati, ipsi sibi damnationem acquirunt, to resist the Magistrate, damnable.* And he saith, that answer (with which too many are deceived) cannot excuse disobedience and Rebellion; this precept obliges private men, but not Magistrates, Since inferiour Magistrates being opposed to the supreme power are but as private men, and in this respect the reason of obedience is common to both.

This is not usuall with mee to intrench upon another mans profession, but seeing I am here enforced to it, give me leave a little to sayle out of my way to answer the Author. First, for the taking up of Armes, or the waging of a warre in generall: I never heard any man oppose the legitimation of that warre, that had these three requisites or ingredients. A lawfull authority commanding it, as the magistrate. A just and lawfull end, or cause occasioning it, as the defence of our Religion, liberties, and the like. And a good affection in following of it, as not with rashnesse or temeritie but after all other meanes first endeavoured. And now I appeale to any indifferent man, whom neither feare nor affection hath engaged to the contrary, whether all these are not exactly made good in this great undertaking of the Parliament?

Obs.

Ans.

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Ans.

Rep.

Rom. 13

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I, but saith the Author, how doth this answer the taking up of armes against the supreme Magistrate the King, for that all other Magistrates are but as private men compared with him? To this I answer, that under the Authors favour, the supreme power (as I have made it good before) is the people represented by a Parliament, and then, no doubt, that precept of the Apostle comprehending the King as well as other persons, doth (according to his owne Argument) justifie the Parliament in their proceedings, and make good their taking up of Armes in their owne just defence.

I, but then the Author utters that of the Apostle, *that the Magistrate is Dei minister nobis in bonum, Gods minister to thee for thy good, and though thou suffer by him unjustly, yet there he is minister in bonum, for that by thy patient suffering thou shalt thereby gaine an eternall reward.*

Certainly, God never made Magistrates on purpose to afflict and tyrannize over their people, that they by patient suffering might enjoy the greater happiness hereafter. No, that they prove corrupt issues from themselves, not from any divine determination; and therefore if the Magistrate doe prove to be *Minister nobis in malum*, a Minister to thee for thy ill, he is, not then *Dei minister*, Gods Minister, for that he doth transgresse and goe beyond his commission, and in such case under the favour of M. Doctor *Ferne*, conscience doth not only deny obedience, but command and justifie resistance. But in all this conceive me straight, tis the magistrates, not any private opposition, that I justifie; and this being undertaken with the due circumstance, is not a meanes to destroy order and societie, but maintaine them; But yet I hope our Author will be here informed that this is not our case. For doe we take up armes against our Sovereign? may he perish, who in his thoughts intends him the least ill; No, tis (as the Parliament have often declared) against his Malignant Councillors? such who endeavour (whatever their pretences may be to his Majesty) the subversion of our Religion, and the destruction of the publike. And I hope there is nothing in the word of God that opposeth this. O yes; in opposing his authority, you fight against him; Strange! if it should be so; when neither the law of God nor man, do oblige obedience to commands unlawfull. He that obeyes the magistrate upon such termes, doth it at his owne perill; and I hope tis lawfull for the Parliament to depresse any civill or private combustion. I, but what if that authority have the Kings person accompanying it, may you in such case make resistance? No question we may, for tis not the person of the King that can legitimize an action, that is in it selfe unlawfull: nor adde any greater force or vigour to their Commission that obey. Besides the personall presence of the King, doth, or doth not countermand his authority; if it do countermand his authority, then they have no power to warrant their action; if it do not, yet the act is unlawfull. So then let them take their choise, they see their termes. Unhappy people who having committed themselves to the government of one King onely, might not oppose the unlawfull and tyrannicall regiment of so many.

It being in effect objected (as appeares before) That a temporall power (meaning the Parliament:) cannot bee greater than that which is lasting and unalterable (intending the King.)

Obs. If this were so, saith the Observator, the Romanes have done impolitickly in creating Dictators, when any great extremity assailed them, and yet we know it was very prosperous to them, sometimes to change the forme of government.

Ans. Hence we may conclude it good policy in imminent danger; to trust to a Monarchy, not an Aristocracy, and much lesse to a Democracy.

Rep. What have we to do with Aristocracy, or Democracy? God be blessed, we, nor know, nor desire any other government than that of Monarchy: and we shall with all humility cast our selves upon his Majesties care and providence guided by his Parliament; But if seduced by malignant and destructive Counsell, we are not bound to yeeld our selves as a prey, to the rancour and malice of his and our enemies.

The King objects; if we allow the Lords and Commons to be more than Councillors, wee make them Comptrollers, and this is not fitable to Royalty.

To which the Observator answers, *we say* (saith he) *that to consent is more than to counsell, and yet not alwayes so much as to command and comptroll.*

True, (saith the Author) *not alwayes, but then it is when their consent shall impose a necessity upon the King of doing the like.*

Ans. Doth their consent impose a greater necessity or ingagement upon the King, than the consent or declaration of law in cases of publike concernment, by former Parliaments, hath done? or than the judgement of his Judges in inferiour Courts doth do? who are so Counsellours for the King, as that the King may not countermand their judgements, and yet it were an harsh thing to say that they are therefore Guardians and Comptrollers of the King, therefore it holds
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in Parliaments a *factiori*. I, but saith the Author thereupon why the King cannot countermand their judgement, is, because they sustaine his person, and his consent is by law involved in what by law they do, so that the act of a delegated power is his act, and there would be no end if he should undo what he hath done. But (saith hee) in Parliament, the Lords sit in a personall capacity, and the House of Commons as representing the body of the Kingdome, and therefore the cases doe not agree.

Under correction of the Author I shall make the case parallel, notwithstanding this objection. I do agree, that in all acts of publique concernment, which are but ministeriall only (I hope it will not offend any one to say that they are Ministers to the Common-Wealth) as in case of making and consenting to new Lawes, or repealing of the old, or the like; there the Lords sit in a personall capacity, and the Commons as representing the body of the Kingdome; But in all acts that are judiciall, as in case of reversing of erroneous judgements or of declaring or explayning the law of the Land, there they represent the person of the King; for that he is *fontis Iustitiae*, the fountaine of justice, and no one can execute such a power without it be first delegated to them by the King; and therefore in such a case their judgements doe tacitely involve the judgement of the King, and do oblige him as strongly as the conclusions or determinations of the Judges. Now none can deny their declaring of the law in case of the *Militia* to be a judiciall act, therefore the consequence is cleare that the King is justly bound by it. I, but further he saith, *The judges sweare they will not assent to any thing, which may turne the King in damage or dishonour, by any manner, way, or colour.* 18. E. 3. And do not the Parliament do the same by their oath of supremacy, and their late Protestation? If you seriously examine them, you will finde that their obligation is the same. And now I hope the Author will make good his ingagement to mee; who said, that when I could make these things agree to the two Houses, I should conclude from the Judges sentence, to their votes; wherefore I doe conclude that there being the same reason, there ought to be the same Law. I, but for a further answer (seeing his former will not hold) saith the Author, *in matters of law there lyes an appeal to them (a writ of error being brought) as to the highest Court, not so in matters of State.* Because whilst they passe sentence according to knowne Lawes, the State is no way endangered thereby, but if they challenge to themselves a liberty of passing sentence according to reason of State, they may when they please overthrow our lawes. The counties which intrusted them, looke upon them as judges, not Politicians. Tis not impossible they should be both; and whatsoever the judgement of the Counties were that intrusted them, certaine I am that he is not fit to occupie a place in that great Assembly, that is not at least in some reasonable measure so qualified; that whilst the Lawyers and other Sages skilled in that profession, are within guiding and directing of this great Ship according to Law, men experienced in the Politiques, may sit at Steerne, to secure it from the Rocks of foreigne invasion, and civill combustion. And when the Author can produce so able a Counsell, so trusty, so much engaged in the welfare of the Kingdome, and so void of selfe respect; then will we upon his request deferre our Parliament; untill then, I hope all faithfull and true hearted people will adhere unto them. For that empty shadow and vaine dreame, of a possibility of their subverting the Law; it is a wonder to me that any judicious mans fancie should so abuse it selfe. To retort the Authors language upon himselfe. Can it be conceived that men in their wits, who enjoy all that they have by the benefit of the Law, and no doubt have as great a portion to lose as others, should extirpate that, which is the principall evidence of their interest, either of life or fortune, and so pinne themselves and their future happinesse, upon unknowne uncertainties, tis extreme madnesse and folly to thinke it.

Wee ought not to conceive that they will either counsell or consent to any thing, but what is publickly advantageous.

When the King conceives they doe not otherwise, hee will most willingly follow their advise.

I dare confidently affirme, that no antiquity or Records what soever are able to produce one example of this nature, where the Kings single concept or judgement it is opposed to that of his whole Parliament. But it cannot be expected that they should meete, while that the King by such malignant Counsell is kept at so great a distance.

By such Counsell and consent we cannot imagine the King limited or lessened.

Such a consents in which his is necessarily involved, renders his power not so properly limited, as none at all; it doth not limit, but take it away.

Doth this consent which doth tacitely include his Majesty, more lessen or annihilate his power, than that of their Predecessours, or more than the sentence of his Judges? The King (saith hee) doth not pretend to have power of repealing old, or constituting new Lawes without them. Neither doe they without his Majesty, they have protested against it, and so would he Author ingeniously acknowledge, if that he were not so much transported with partiality and prejudice.

Rep.

Obs.

Ans.

Rep.

Obs.

Ans.

Rep.

prejudice. But happily hee doth not understand the difference betwene constituting new, or repealing the old Lawes, and declaring or expounding the Lawes in being, *but did Ship money destroy our propriety* (saith he) *but by this very consequence?* What a grosse mistake is this? Because the Kings judgement is involved in that of his Parliaments, and of his Judges according to law; must it therefore follow that the whole Kingdome should be obliged by his Majesties determination against Law; Or because legally we could not be divested of our property without our consent, must not therefore the King be bound by the judgement of his Parliament, which doth tacitly include his consent? I, but saith hee *Ejus est velle, qui potest nolle. He onely hath freedom of consent or disagreement, that may at his election do either.* 'Tis true; But this must be understood of an actual consent, or disagreement and not of an implied. For in Corporations or bodies politique, where the Major part carries it, will you say that the residue are not bound, because that they had not election to assent, or dissent, as the case falls out to be? This were a way to open a gapp: to all disorder and confusion. So the Kings consent is included in that of his Judges; and yet I hope you will not say, that the King there had freedom of dissenting, which is the very case of the Parliament.

Obser.

It is alleged in derogation of Parliaments, whatsoever the right of Parliament is, to assemble and treat in all cases of a publique nature; yet without the Kings concurrence and consent they are livelesse conventions, without all vertue and power, the very name of Parliaments is not due to them.

Ans.

I, but saith the Author, you should deliver the Kings sense and words truly; the summe of which is onely thus, *The two Houses have not power of making lawes and altering the established government without him.*

Rep.

What a strange construction is this; This is no more than will be readily agreed you; you shall not neede dispute it; therefore questionlesse the words must import somewhat else. The truth of it is, your mistake, (of which you are frequently guilty) is this, that you promiscuously counfound the making of new lawes and the altering of the established Government with declaring of the Common-law in being; which is palpable sophistification; And now I would faine be resolved by any indifferent understanding, whether if they may not do that, without the Kings actual concurrence and agreement, and that not to be obtained; they be not a meere livelesse convention of private men without all vertue or power? It must be agreed that he that is actuated and moved by another power onely hath none in himselfe.

Obser.

This allegation at one blow confounds all Parliaments, and subjects us to as unbounded a regiment of the Kings meere will, as any Nation under Heaven ever suffered under.

Ans.

The Author saith that *there is no colour of reason in this; and why? for* (saith he) *are we not left in the same state in which wee were? His Majesty denying to bring in a new government; doth not take away the old.*

Rep.

The Author saith true, that we are in the same state-indeed, but 'tis as we were before, and without the Parliament, subject to the Kings meere will and lawlesse regiment. And though his Majesties denying to bring in a new government, doth not take away the old, yet his denying of the old government, is an introducing of a new.

Obser.

Vpon the same reason, by the Kings dejection, other Courts must needs be vertuelesse and void.

Ans.

It were a strange consequence to conclude, that because that may be done without the King, to which his consent by law is not required; therefore that may be done without him, to which his consent is by law necessary.

Rep.

Under reformation, the Kings actual consent to any legall or judicall determination in Parliament is no more required, than it is to that of his Judges; yet, with the Authors favour, both have the implied and tacite consent; and therefore upon the same ground, of the Kings desertion, other Courts must be vertuelesse, and quietly possesse a vacation in Terme time, as well as his Parliament. I, but saith the Author *it is against common sense to suppose, that he which enjoys all by the benefit of Lawes should binder the due administration of Justice according to those Lawes, and so wilfully endanger not onely his rights, but safety, by putting the Kingdome into tumults and combustion.*

This is an argument to perswade a man; no ground to convince him, or a probable inducing reason, no legall conclusion. To argue from a probability to necessity, as to say it is not likely it should be so, therefore it is not so, is a strang peece of Logick. administration of justice is delegated to the Parliament (though in a more high and supereminent way) as well as to inferior Judges; and the King gaines as much honour and benefit, nay more, by the free efflux and current of justice in that Court, than in any other: and yet we see the streame is stoppt, so that a deluge and inundation of misery hath be-spread the face of the whole Kingdome; and

to have fancied this, not long since, would have been as much opposite to common sense, as the other.

It is attempted to divide between part and part in Parliament.

Who those attempters are, I inquire not. I suppose, he means those who divided the Lords into good and bad, the members of the House of Commons into well and ill affected.

You need not much enquire, your Booke speaks you an acquaintance with them. But know those that are bad or ill affected, made that distinction themselves, not others.

It is a wonderfull thing that the Kings papers being straited scarce with any thing els, but such doctrines of division tending all to the subversion of our ancient fundamentall constitutions, which support all our ancient liberties, and to the erection of an Arbitrary rule should find such applause in the world.

There is a vast difference betweene declaring what divisions are, and causing them to be; to shew; is not to teach division.

Farre be it from me to lay the least imputation of guilt in this kind upon his sacred person, No; the confidence that I ever had of his goodnesse, piety, and love to his people, bids me silence. But this I may, without breach of charity, or stain of loyalty, conclude, that the best Prince may be corrupted, or if not so, seduced by those, who vow themselves faithfull servants to his Majesty, and the publique, whereas their actions, which tend to nothing but rapine and spoyle, do plainly testifie the contrary. These are they that can dispence with their breach of trust (how they will be absolved I know not) and not onely sequester themselves, but divide the King from his Parliament, and his people, and to open the gap more wide, and make the breach more incurable; advise His Majesty (contrary to his pious disposition) by published declarations to traduce his Parliament, and cast most strange and unheard of obliques upon them, and to charge them with such crimes their thoughts were never guilty of. Thereby to render them odious unto the people; So that by destroying the mutuall bond of confidence and affection, we our selves might be made actors in our owne ruine; and if this be not to cause division, as well as to declare it, and to teach it, as well as shew it, let the world judge.

I, but saith the Author, it is beyond admiration, if the Kings aimes are such, as he would have the world believe, that they should finde such applause. I neither dare, nor can charge his Majesty with aimes that are indirect; but if he were guilty in this nature (which I profess my faith is not as yet strong enough to believe) we must know that all actions of Kings find acceptance, and renouue with many; and the very worst will not want some to applaud them. But pray heare his reason, why 'tis not probable if the Kings intentions were such, they should finde such applause; for saith he, consider the persons from whom; men that have much more to lose, than some who may ayme at getting greater fortunes, by pretending they are in danger to lose what they have. None are so rich but they may have and desire more; and 'tis frequent they that have least, are best satisfied. Rehobams young men might in all probability, have as great a portion to expose to hazard, as the grave and sage Counsellours, and yet you see they preferred their vile and ambitious counsell before the good of the publique. I, but then he saith, they are knowne not to value their lives equall to their liberties. Very good, if it were true; yet for all this, they may be to chuse their Religion. Nay, which is more, they are men of as great wisdom as honesty: it may be greater; neither of which would permit them to be active to make themselves miserable, and pull upon their posterity and Countrey perpetuall slavery. Doth the Author thinke that his insinuating probabilities (which are his strongest Arguments) shall evince us that the Sunne shines not, though our eyes testifie the contrary. Might not this with the same strength of reason, have beene urged in the beh life of Rehobams young counsellours, and yet we see what wretched advise they gave the King; though they could not but foresee, that they did thereby enslave their posterity and Countrey. What impudence of malice is it, to accuse the King to intend that, when the world sees, how much he hath suffered meeely to prevent it. What arrogancy of expression is it to say we accuse the King of introducing an arbitrary rule? Whereas we labour nothing more than to acquite his Majesty; No nation that ever enjoyed a Municipall law, ever approached nearer to an arbitrary Government, than wee not long since did; and did wee in all our sufferings in the least manner impeach or accuse his Majesty? No; wee questioned his evill Counsell, who wrought that mischaunce to the Kingdome, and they (as such use to doe) who dare oppress his people, stick not (to discharge themselves) to patronize thir evill actions upon their Sovereigne; and such is the subtilty of our Author here. If you impeach him for any publike deservice, he knowes whether to flie for Sanctuary.

Could our Ancestors ever have beleived there should come a King, who would plead for Magna Charta, who would hazard his Crowne in the defence of his Subjects liberty, and desire nothing more, than the abolition of all Arbitrary rule?

This may be the pious assertion and care of our Gracious Sovereigne; But our misery is, that

Obser.

Ans.

Rep.

Obser.

Ans.

Rep.

his evill Counsellors plead against *Magna Charta*, and too apparently hazard his Crowne, in the destruction of his Subjects, and their liberties; indeavouring nothing more, than the introducing of an Arbitrary rule.

Obs.

If the King have parted from his Parliament meerely because they sought his oppression, and he had no other meanes to withstand their tyranny, let this proclayme them a void Assembly.

Ans.

His Majesty never laid such charge to the Parliament: the more impudent the Author that dare doe it, when his Majesty declined it: For he saith, it is most evident, there was too great reason to justifie his feares, when notwithstanding his deepest protestations to maintaine the true established religion, they still imputed to him inclining to popery.

Rep.

I dare not charge his Majesty with any thing, I have no authority for it: But this I say; when justice shall be denied, and the course thereof obstructed, against such firebrands, fomenters, and engines of all mischief, as Jesuites, Seminary Priests, and the like; When Papists shall approach so neere the Throne, and none admitted into greater favour and affection than they; certainly I may conclude (without prejudice to my King) that the Pope harbours in some of his Councils hearers; And this meanes being used, what alteration future necessity or extremity may impose and cast upon us, is not difficult to judge. When notwithstanding his utmost endeavour to suppress that unhappy rebellion in Ireland &c. and his frequent pressing them to new supplies; yet the people were made believe, he was a favourer of their bloody designs.

It must be acknowledged the King often pressed it, most wicked Conncell that afterwards depressed it; witness the many obstructions that did intervene sufficiently manifested to the World. And which is above all, the seizing of that poore supply that was sent unto them. When the baser sort of the people were permitted to come even to the Parliament in clamorous and unwarrantable multitudes, &c. And were there not many of them (having neither offensive nor defensive weapons) most cowardly, inhumanely, and barbarously massacred and butchered for their paines punishment sufficient for their fault, if they committed any. When seditious Pamphlets hourly came out, and many Presses laboured day and night to abuse the King. For my part, if there were any such, I was never guilty of countenancing or abetting of them; No, not so much as by their reading. However this I am certaine of, that whatsoever, the wit of malice could invent was dayly and hourly forged and vented against the Parliament.

When factious Preachers were encouraged, whilst they did cast publike obloquies upon the Lawes, which stood in full force, and which if they had bene duly executed, would have justified themselves by restoring us to our former peace and quiet, which we so long enjoyed, as we knew how to obey.

*Whom our Author may intend within the compasse of this notion of factious Preachers, I know not. But I feare by the stile of his booke, he comprehends all such as preach the word of God in ruth and sincerity, not fearing the face of men, that will not be wrought upon to call evill, good, or good evill. Had Paul lived in these dayes, I doubt our Author would, (Tertullus like) have accused him for a pestilent fellow, a mover of sedition, and a ringleader of Sects, and the like, and for my part, I think that those whom he intends, and Paul were equally guilty of these offences. And yet you heare what testimony Paul gives of himself, after the way which they call heresie, so we shew I the God of my Fathers. O, the madnesse of these times that we are fallen into, that the labouring for truth, honesty, and a good conscience, that will not be seduced by every idle and unwarrantable innovation, should be accounted faction! but I passe this, desiring our Author when he speakes of faction, to reflect upon himselfe, by a serious examination. But he tells us that the Lawes have bene interrupted; certainly if he had expected an answer he would have shewed us in what. *Delosus versatur in generalibus*, tis not overt and faire dealing to hide your slanders in generalis: the more tollerable, if open, that they may a linit reply. The last vaine feare was; *when such seditious fellows out of their pulpits, did dare to strike even at the highest, &c.* Contention with words, makes no effusion of blood, tis strange that this should be one cause of feare, that should drive the King to so great a distance. Well, here is both faction and sedition in our Authors booke, had they bene as sure vented in the pulpit, they would not have gone unpunished, but I believe he can sooner write sedition, than he can define it; But to conclude this, tis wonderfull that these Chymeraes which so frightened the King at London, should likewise cause him to raise an Army in the North.*

Act. 24. 5.

Verf. 14.

Obs.

If the King could be more wisely or faithfully advised by any other Court, or if his single judgement were to be preferred before all advise whatsoever; were not only vaine, but extremely inconvenient, that the whole Kingdome should be troubled to make elections, and that the parties elected should attend the publike businesse.

Ans.

Rep.

The King never refused to advise with them.

What a palpable fallacie is this, No doubt the Author can distinguish London from Yorke; and

And the Commission of Array from the Militia; But then hee proceeded to tell us, that the King would not be the only forme of the Kings answer to such Bills as they were not willing to passe, L^d Roy s^t aviser, proves that after the advise of this his great Councell, he is yet at liberty to advise further with persons or occasions, as his owne wisdom shall thinke meet.

Master Crompton in his justification of Courts tells us, that when the King did consent to a Bill, then he endorsed it L^d Roy vult, the King will have it so; if he did not agree, then he indorsed it, L^d Roy s^t aviser, which as he affirms, was an absolute denyall, why then no ground for this inference, that the King was at election to advise further with any other Councell. or if it were so, this proves *de facto* that the King hath had this power, but doth no way answer the Observators reason; how that if this might be permitted, were in vaine to call Parliaments. Besides, they are the most supreme Councell in England, and therefore according to the rule of Law, in the presence of this Councell, all inferior Councells ought to cease. Again, what they councell or determine, is done in a legall and judiciall way, and therefore not to be countermanded by any extrajudiciall advice whatsoever; No, nor by the judgement of any other Court, but a subsequent Parliament.

Obfer.

And the Observer adds this as a reason, why the Kings judgement onely ought not to be received, for saith he, the many eyes of so many chiefe Gentlemen, out of all parts see more than fewer.

Ans.

The same reason (saith the Author) which denyes a liberty of dissenting to the King (that is such a number who see more, because they are more) may deny it to the House of Peeres in comparison of the House of Commons, and to that House too, in comparison of the People, and so both King and Lords are voted out of Parliament.

Rep.

What a poore evasion is this, and contrary to common sense, that this reason should deny a liberty of dissenting to the House of Peeres, in comparison of the House of Commons; for that they are much the major part of the Parliament, and so that House too in comparison of the people; For the first he may aswell argue that the major part of the Judges in the Kings Bench, should binde the minor in the common Pleas, or *vis versa*; and as soone maintaine it; for though both the Houses make but one Court, yet they are so distinct, that each doth officiate in its proper Spheare; and the conclusions of the one cannot binde the other; and for the latter, that the peoples judgement, because the greater number, should sway the House of Commons; Hee may aswell reason, that though I give away my hat, yet the property is not altered, and as soone prove it. When hee can make the people to represent the House of Commons, not the House of Commons the people, then shall the peoples judgement for majority carry it. Vntill then, we must, as wee are engag'd, by our election, submit to their determinations. Besides, foure hundred choice, grave and solid men, may see and discover as much as foure hundred thousand; 'Tis not infiniteness of number, but the qualification, not the pluralitie of eyes, but the acuity, that sees most; yet as one good eye may see more than many bad ones; so it must needs be that many good ones must exceed that one. Besides saith the Author, experience sheweth this rule is not generally true, if it be regularly true, it is sufficient. For (saith he) I dare say, if wee aske almost any Parliament man, hee will tell us upon the reading of a Bill, sometimes one man in the House hath found more faults, and urged more exceptions than three hundred would have beene able to espie. This possibly may be, but the strong probability is on the other side. Because casually one may see more than three hundred, is it therefore either probable or necessary that it will be so. For my part I shall never waive a propable certainty, for a meere casualty, nor in equall judgements preferre an Vnite before a Pluralitie. There have bene Parliaments, wherein acts have bene made to remedy former mistakes, Nay, whole Parliaments have bene repeated and declared Null, by succeeding Parliaments, and instances in many. I shall not endeavour to maintaine an infallibility in a Parliament, nor did I ever beleive (considering them to be but men) that they could not erre in judgement, aswell as others. But for to conclude from a Possesse to an Esse; to say that which hath bene, may be, and therefore it is; is such a peece of Logick as I never heard of.

The few private ends to deprave them, must needs render their Counsell more faithfull, impartiall and religious than any other.

Obfer.

Certainely they may have as many, as any other private Subject.

Ans.

What, may so many, casually met from the severall Counties, strangers to each other; the most select and choice men for wisdom and manners; and probably of the best fortunes, intrusted with the publique, have as many bye and collaterall ends, and as soone infringe their trust, as any private Subject? When ever the Author makes this good, I will sacrifice my reason to his will; and beleive all to be sound Doctrine which he preaches.

Rep.

They are strangely transported with the love of a popular state, who can so overrule their under-

standings as to force themselves to thinke, the members of it may not be extremely subject to ambition, covetousnesse, hatred and affection. And they are as strongly ravish'd with the love of Monarchy, who can be live that all these may not sway the Scepter, and rule the King to the oppressing and enslaving of his Subjects. But what doth the Author count this a popular State? I never learned before, that where the people had one principall Governor over them, as a King, that, that should be a Democracy. Doublesse he is not well read in the Politiques, or if he be, he doth much wrong himselfe, and dishonour his King, so grossly to mistake a Monarchy, for a Democracy.

Then hee instances in the Bishop of Durhams case, by which he saith we are told in the 3. cap. of the second Parliament held 1. Marie, how that that Bishoprick was dissolved in a former Parliament. 7. Ed. 6. which was compassed and brought to passe by the sinister labour, great malice, and corrupt meanes of certaine ambitious persons, then being in authority, rather to enrich themselves and their friends, with a great part of the possessions of the said Bishoprick, than upon just occasion or godly zeale. And then he concludes; Let the world judge whether this age may not be subject to the same temptation, and whether the desire to share the meanes of the Church, may not have as strong operations as formerly. I did never p'ead for an unerring power in that great assembly, that's too papisticall; for though Parliament men, yet still but men, subject to the same infirmities with others. But as it is against law to presume any wrong of that great body, so it is as much against reason to thinke that so many from severall places, of severall constitutions and inclinations should all combine to labour for themselves, not the publique, or admitting that they may (which is very improbable) yet still let us pay them that tribute, which former ages hath done, of love and obedience, and strong presumption to the contrary. our judgements are but extrajudiciall and illegall, tis the succeeding Parliament only, that can or hath power to amend their errors, if they commit any; tis our duty to presume the best, and leave their actions to the scanning and comptrol of their wise successors; And let us take this for a caution, that the errors of their Predecessors ought not (though it be most fallaciously and maliciously endeavoured) to winn us to a beliefe, of the like in them. That others have transgressed the limits of trust, is no good argument to prove that they doe so; nor with the leave of the Author will the Bishop of Durhams case any way impeach the age we live in; tis one thing to dissolve one Bishoprick, and her to extirpate the function, as happily not *jure Divino*, and therefore unwarrantable; base and fordid lucre may perchance suggest the one, tis conscience only that must promote the other. Nothing more common in the Romane story, than the bribing of the Senate. God be praised our stories cannot testifie the like of Parliaments, neither is there any concluding from a Romane Senate, to a Parliament, Our Author well knowes they will not hold parallel; and he that should make such a comparison, deserves to be made an everlasting monument of disloyaltie and dishonour to his Countrey.

I, but saith he, they must evidently have more private ends than the King, who may be misled, upon wantonnesse, but they must struggle with solid temptations, desire of riches, desire of honours, there being an emptinesse in them, whereas he is full and satisfied. No King so great and honourable, but may extend his dominions, and he that is circumscribed by law, would faine make his Government obdurate, and are not these strong seducing temptations? Nay, is it not most frequent, that the greatest have the most vast and unlimited desires? He that enjoys much would yet be a *Cæsar*, and every King an *Alexander*, and he that cannot conquer other parts of the world, would yet enslave his Subjects.

Obs. we have ever found enmity and Antipathy betwixt the Court and the Countrey, but never any till now, betwixt the Representatives, and the body of the Kingdome represented.

Ans. Now, betwixt them, and those many that intrusted them? are not they satisfied with their carriage? If this were never till now, it may seeme to be upon some causes which never were till now.

Rep. The Author saith true, but let me tell him, that the grounds move from such as he (who maligning the good and prosperity of their Countrey in a happy reformation) corrupt the people by their ill example, and worie doctrine, dividing betwixt King and Parliament, and people, telling of them that they are bound (by I know not what divine precept and injunction) to desert the Parliament, and adhere to the King, though it be to the apparent destruction of both King and people; and whether this be true or no, let the Author and that reverend Doctor of Cambridge witness.

Obs. Except Master Hollis his rich widow, I never heard that promotion came to any one by serving in Parliament.

Ans. If the nineteene propositions had passed, it would have beene no newes to heare of many promotions. Nay it would have beene rare to have heard of any advanced out of Parliament &c.

The

That was a
Popular
State.

The greater had beene the happinesse both for King and people. Are there not there all degrees of Nobility and Gentry > men of approved integrity and lyncerity to their God, and of knowne faith and loyalty to their King and Countrey? And can any (let malice it selfe speak) be more meritorious or capable to receive honour and preferment than they, who have the vote both of King and people for their true and faithfull service to both? Had it gone on, his Majesty had increased his owne honour, and added to his peoples security.

The Lords and Commons ought not to be deserted, unlesse we will allow, that the King may chuse whether he will admit of any Counsell at all, or no, in the disposing of our lives, lands, and liberties.

By law he cannot, he will not refuse to hearken to his great Counsell.

To be advised by them but yet to doe what he list, is this to hearken to their Counsell? That is not the way to satisfie the grounds of calling Parliaments, to make the King sole Arbitrator of publike concernments.

Hee only saies, he is ~~not~~ bound to renounce his owne understanding, or to contradict his owne conscience for any Counsellors sake what soever.

If he should do so in things dubious, and of which he ought not to be the sole Judge, so that his single judgement must of necessity be of lesse consequence, than that of his Parliament, were no contradiction to conscience; But why the advise of his Parliament should be more opposite to conscience than any privie (and at this time) unwarrantable Counsell seemes a mystery.

'Tis granted in things visible and certaine, that Iudge which is a sole Iudge, and hath competent power to see his owne judgement executed, ought not to determine against the light of nature or evidence of fact.

Sole Iudge or not alters not the case, neither is there any restraint onely to visible and certaine things; in the discharging of a trust, the conscience must be guided by a morall certainty, or high probability.

It doth plainly difference the case, for where a man is a sole Iudge, he ought to be guided by the evidence of fact, either in certainty or probability, and cannot determine against that; but where he is not the sole Iudge, and the matter prove very dubious and incertaine, there he may and is bound to submit to the judgement of the majoritie, and ought not to preferre his owne judgement or opinion.

The sinne of Pilate was, that when he might have saved our Saviour from an unjust death, yet upon accusations contradictory in themselves, contrary to strange revelations from heaven, he would suffer innocence to fall, and passe sentence of death merely to satisfy a blood-thirsty multitude.

Concerning strange revelations to the contrary, all that I meete with is this, his wife told him saying, have thou nothing to doe, with that just man, for I have suffered many things this day in a dreame because of him, what was revelation to her; was but a single tradition to him, she was obliged to believe God speaking to her, he was not bound to believe a woman speaking to him, &c.

I shall not descant as our Author doth, upon this revelation, nor trouble my selfe to shew of what validity and esteeme it ought to have beene to Pilate; though questionlesse it ought not to have beene vilipended and rejected; and the rather for that he himselfe could discover no fault in him, as he professes *Ioh. 18.* and againe *Mat. 27. 18.* he sayes he knew that for envie they had delivered him, wherefore it must needs aggravate his sin, who contrary to the revelation of his wife, agreeing with his own knowledge, should thus passe sentence of death upon an innocent. Neither were these grounds sufficient in this case, to challenge his assent, and make him yeeld to their vote, which the Author by way of allusion to the Observer, here lets down, that his single judgement was not to be preferred before all advise. That the many eyes of all the people see more than his. Besides there was a Maxime grounded upon nature, that a Communie can have no private ends to mislead it. No, Pilate here was a sole Iudge, and knew Christ to be innocent, and therefore contrary to his owne knowledge and evidence of fact; ought not to have beene swayed by the multitude; but where there is a joynt judicall power, this doth no way conclude against a wise concession to the majoritie in cases dubious and uncertaine.

If one Iudge upon the Bench dissent from three, or one Juror at the Barre from eleven, they may submit to the major number though perhaps lesse skilfull than themselves, without imputation of guilt.

The Oath of the Jurors is, that they will doe right betwixt party and party, according to evidence given in, not their fellowes votes. How his Casuists will satisfie a mans conscience, when he violates this Oath, I know not.

The Author mistakes, tis no violation of oath, in matters dubious, for the one to yeeld to eleven whose verdict must needs be of greater strength and validity, for though possibly that one may see

than the eleven; yet; tis eleven to one (ods sufficient) that he doth not. And if he doth (as hee ought) agree with them in their verdict, this is no compliyanee in vote, but a proceeding according to the information of testimony; And therefore in this case he need not appeale to a caluist to satisfie his conscience, for if he doe right betwixt party and party, the oath is sufficiently satisfied. Tis true in many cases, there may be a legall submission, but then the Law doth not require a personall act contrary to conscience, but provides for the preservation of the innocency of the dissenting parties, by making the act of the major part, have the force of the whole.

A Judge ought not so to sacrifice to his owne net, or to be devoted to his owne opinion, as not to yeeld to the greater number of his brethren. Nay, we know tis usuall for one single Iudge being opposit to the other three, to release his opinion; and doe we think in this he doth an act contrary to conscience? seeing all men are subject to errour, the more secure and safe way is in matters controvertible, for one to subscribe to the judgement of many, and not for many to yeeld to the Vote of one.

Obfer.

If so in Law, much more in State, where the very satisfying a multitude, sometimes in things not otherwise expedient, may prove not only expedient, but necessary for the settling of peace and ceasing of strife.

Ans.

True, if in law, not otherwise. A Governour must not displease God to please the people.

Rep.

If the Author intend in matters cleare and obvious to every eye, there he is in the right, a Governour ought not to displease God, to please the people. But if in matters dubious and incertaine, here he failes, it may be both convenient and lawfull in such case to subscribe to the people: Many times the granting of an unreasonable request, doth not satisfie, but increase their desires. Tis expedient sometimes for Governours to grant that which otherwise would not be necessary. There is a freedom of policy they may make use of sutable to the times and occasions, and not prejudice the law of God or their owne conscience. That which at another time may be unreasonable, may now be convenient, Better to run the hazzard of an illimited desire, than to destroy all for want of their present satisfaction.

Obfer.

That the Militia and Magazine of Hull &c. should be entrusted into such hands, as were in the peoples good este me, conscience and understanding could plead nothing against it.

Ans.

The King had more distrust of some, and more confidence in the fidelity of others.

Rep.

The same may be verified of the Parliament, though upon better ground and reason; our former sufferings could not but ingage our feare for the future. And how could we trust those with this great ship of the Common wealth in an imminent storm, who had almost run it upon the rockes and quicksands in a calme?

Obfer.

If it could have beene averred (as it could not; for the contrary was true) that this would have bred disturbance, and have bene the occasion of greater danger.

Ans.

What hath beene the cause of these unhappy distractions, but the taking of the Kings towne from him by force, and the illegall alteration of the Militia, upon pretence of apparent danger.

Rep.

What impudence of Malice are these times reduced to? that any private pen dare charge the Parliament with such untruths? Is not the Towne of Hull possessed in his Majesties behalfe, for the securing of him and his people? and is not the Magazine thereof imployed upon the same service, as the Parliament have often published it? If his Majesty should suffer a forraigne force or enemy to invade the Kingdome, and should surrender up a Fort unto him, is it not lawfull for his Subjects to seize this for; for his and their owne preservation? And for the Militia: has it said to be illegall; Were he an Epitome of all law, and had the most absolute perfection that ever Lawy'r yet attained to; yet let me tell him, that he doth much transgress the bounds of modesty and discretion to stile that illegall, which the Parliament have upon mature deliberation, voted and declared to be legall. And I believe no wise man can imagine his judgement should preponderate that of the Parliament; Nay, which is yet worse for the Parliament to doe all this upon pretence of danger, and to be afraid where no feare was, &c. for if the danger (saith he) had beene apparent: it might in so many moneths be made evident, &c. Doth the Author think all other men to be blind, because he cannot see? or, are our fears the lesse, or ever a while the more vaine, because his confidence outfaces them? that the imminent danger which threatened this Kingdome, hath not yet sized upon it; we owe it to the wisdom and vigilancy of the Parliament: who timely prevented that, which might have beene by this time our utter ruine and destruction. Besides there is no measuring the cause or ground of feare, from the event: shall we conclude the clouds which hang over our heads, to be but empty vapours, because the ydols doe not shower down upon us? or that our feare is but an idle fancy, because happily our care, or perchance some intervening impediment hath superseded and interrupted the ground and cause of our jealousy?

Obf.

The Observator having shewed how that Kings are bound to answer the peoples desires, saith what blame is it then in Princes, when they will pretend reluctance of conscience and reason in things behoofull for the people

(29)
No Man justifies pretended conscience, no man can condemne reall.

Tis true but conscience ought not to oppose or contradict that, which is good and behoove-
for the people. I, but there is no ground of objecting of pretences (saith the Author) and why
so? because the people are deceived, and if they looke upon his actions, they will appeare unto
them as cleare as the day. I am so confident of his Graces, piety and goodnesse, that I beleive
they are so? Tis his evill Counsell that causes this misunderstanding and breach betwixt his sa-
cred person, and his people; pretending that their security will prejudice his right; and that hee
cannot with honour and a good conscience grant that, which being yeelded to, would injure
neiher. I, but againe, certainly (saith hee) hee that hath granted so much in this Parliament
and that in a short time, as put all his Royall Ancestours acts or grace together, they fall much
short of his. And no wonder the Kingdome was sick of many desperate diseases, contracted
through the long disconinuanee of Parliaments; and all these (which by their happy continuance
might have beene prevented) must now apply themselves to the Sovereigne medicine of his
Royall Grace and favour, for their happie recovery. would not have denyed any thing which
was reasonable, not anything (since his wants required supplies from them) but what should put
him into farre worse condition than that of poverty. Tis not his Majesties necessity that can
perswade or winne his evill counsell to a compliance with his Parliament; what is his necessity
to them? if theirs finde a supply, *percat Rex & ruat regnum*, they care not. But tis strange!
would setting of the Militia by the advice of his Parliament, put the King in a worse condition,
than poverty? why, yes; he that gives away part of his estate, is poorer then if he had divested
himselfe of the whole; for *dimidium plus toto*, a pretty fallacy.

The vertue of representation hath beene denyed to the Commons, and a severance hath been made
betwixt the parties chosen, and the parties choosing, and so that great priviledge of all priviledges;
that immovable Basis of all honour and power, whereby the Commons claime the intire right of all
the Gentry and Commonalty of England, hath beene attempted to be shaken and disturbed.

There may be a mistake in the imputation of Severance, and denyall of representation to the Com-
mons. For put the case if a few men of a county, present a Petition to the House against establi-
shed Lawes, and the settled discipline of the Church; this is received and thanks returned; if after a-
nother petition (modestly and discreetly expressing their desires, as that most excellent petition of
Kent) be presented, attested by men more eminent then the former &c. and this in favour of the present
government &c. tis either rejected, or the Gentlemen imprisoned that presented it, this by no means
is to be called a severance or denyall of representation.

Tis neither number, nor quality of persons (though I confesse these may put somewhat the
better glosse upon it) that can intitle a petition, either good, or bad; No, tis the matter of it.
And they that shall dare to make one Petition against the knowne and published votes and de-
terminations of the House, tis no wonder if they be put to make a second, for their liberty; for
in so doing, tis they, not the House, that deny the vertue of representation.

Most of our late distempers and obstructions in Parliaments have proceeded from this; that
the people upon causes of defamation, and unproved accusations, have beene so prone to withdraw
themselves from their representatives, and yet there can be nothing under Heaven, next to acknow-
ing God, which can be more perfidious, and more pernicious in the people, than this.

Here we may see the strength of passion above reason.

And here you may discover the over pouring of censure, or rash judgement without reason;
for (saith he) certainly we never took the Oath of supremacy, nor of Allegiance unto them. Nei-
ther did ever (as I have made it good before) the body politique unto his Majesty. hence it will
evidently follow (saith he) that treason against a Burgess, is higher, than that against the King.
If one Burgess can represent a whole Kingdome, he may maintaine his consequence, if other-
wise, it will prove ridiculous.

This he grants as unquestionable, that the legislative power of the Kingdome is partly in the
King, and partly in the Kingdome, so that neither the King can make a generall binding Ordinance,
or Law, without the Parliament, or the Parliament without the King.

This one truth, if constantly stood to, would have prevented our miseries; and if yet embraced,
might restore the Kingdome to happinesse.

Doubtlesse the Author never read any Law, that knowes not what equity means, all Lawes
must receive an equitable & favourable construction, according as opportunity and the necessity
of the case administers occasion; for *summum jus, est summa injuria*, overstrict observance of
the law may sometimes be unlawfull.

And therefore the Observer doth make a good qualification of his former rule, as hold-
ing onely in ordinary cases; but if the safety of the people be concerned, if it may prove dangerous
or inconvenient unto them, then an extraordinary course may be justly taken.

*Ans.
Rep.*

This is it which hath so miserably rent this Kingdome, and raised these sad divisions.

Most malicious and scandalous; 'tis not this; but the want of its due observance, and neglect of our duty, that hath raised these sad distractions. *First the People are made believe they are in danger. Strange! that a Parliament should infringe their trust, and so easily deceive a whole Kingdome. Then a prevention of these dangers is promised. Good reason too; a whole Kingdome ought not to be sold to misery and destruction upon an easie rate.*

The summe is this, in case of apparent and imminent danger, the peoples safety is not to be neglected; they ought not to be exposed as a Prey to the enemy; therefore most fit they should be put into a posture of defence. Well, what could reason or malice it selfe object against this? I, but then none so fit judges of this apparent and imminent danger, as the two Houses. Is any one so fit? Or can any discover more than the representative body of the whole Kingdome? wherefore they to order this Militia. Had our Author intended to have dealt fairely and candidly, he would have shewne the many humble Petitions and requests of the Parliament, to his Majesty, for the ordering of the Militia, according to their advise, for the better security of his people: and His Majesties negative returne unto them; before they (according to their duty) undertooke in his Majesties and his people behalfe, the trust and manage of the same. And now it must be in their power to command men, raise horses, seise on all the Ammunition, send for what supplies of money, they thinke necessary, for the repelling those dangers. This is but a consequence of the other, it were but in vaine to lay a foundation, if they had not power to raise the Structure. I, but here wee are fallen backe againe into (what we so much complained of) Arbitrary power. 'Tis much that one, who pretends to be Master of his reason should be thus mistaken.

Then belike all proceedings in cases according to equity and necessity (which justice requireth, should not be regulated by the strickt rule and severity of law, as not being within the intention of it, for that such constructive might prove destruction to the rule) is a prosecution of an arbitrary power. The manage of a businesse in case of necessity, neede not keepe correspondence and agreement with the rule, neither ought that to be stiled Arbitrary, which necessity makes lawfull. *was not this the very case of Ship-money? there likewise was a pretence of danger and necessity, and none so competent a judge of this as the King, and therefore for the securing of the people, money must be immediately raised without the Subjects consent. With the Authors favour these cases do no way runne parallel, for will it therefore follow, that because the King cannot (upon no pretence whatsoever) take away the Subjects property, without their consent; that the Parliament may not take it with their consent? Most inconsequent. The Parliament represent the people, which the King doth not; And therefore their conclusions do oblige the people; which the Kings cannot. But then he presses an Argument that was made against the ship-money, which he saith will hold in our case.*

It was then laid downe as a sure ground of reason, that it was better for the Kingdome, though it were in reall danger, in arena consilium capere, to shift for it selfe as well as it was able by a suddaine defence, than that the King should provide such a remedy, which would be so easily, so frequently abused upon every pretence of danger, to prevent such an evil, which could extremely seldom, or almost never happen, for an Army and Navy could not be so secretly provided, but that we must have some intelligence of it. So he saith in case of the Militia better suffer it in the old way, and the Kingdome shift for it selfe in case of extremity, than to runne the hazzard of the trienniall abuse of it, to the putting of the Kingdome into a combustion, upon I know not what vaine pretences.

I beleave the Author preached a quite contrary Doctrine before the Parliament, O, the power and vertue of this great Assembly: that can so Metamorphize men, as to make them speak according to the dictate of reason, not of fiction. But for his Argument the ground of the objection that was laid down against the Ship-money, was the possible frequent abuse that might be of such a remedy, upon every pretence of danger: which without controversie carries a great deale of weight with it. And when our Author can make it good (as he hath strongly laboured, but much failed in it) that a Community may have those many private ends to mislead it, that a King may, then shall we agree that the cases do in reason parallel; untill then, we must tell him, that there is foure hundred to one against him.

Let the world judge whether the pronouncing Sir Iohn Hothams att Treason, be not contrary to the clearest beames of humane reason, and the strongest inclinations of nature; for every private man may defend himselfe by force, if assaulted, though by the force of his Majestrate, or his owne Father, and though he be not, without all confidence by selfe.

Sir

Obs.

Sir Iohn Hothams seising upon the Kings Towne and Ammunition, was, it seemes in his own *Ans.*
defence; who assaulted him? Did his Majesty drive him into Hull?

N, But his Majesty would have driven him out, he being possessed of it by the Authority *Rep.*
 of Parliament, for the securing of him and his people. And though it be not lawfull for a Subject to seise a towne in his owne defence, yet having got it by a lawfull authority: he may defend himselfe, and it, against any assault by the same power. Neither can any other extrajudiciall power or command discharge him of that trust, which was committed to him in a legall and judiciall way by another. *what can he thinke of the Gunpowder Traytors, was their resistance a just defence? Then certainly every rebellion is a just warre.* His conclusion is very just; For questionles there can be no warre unlawfull, if their resistance were a warrantable defence. But I hope the Author will give us leave to tell him, that the cases are more different then a Papist, and a Protestant; they agree in somewhat, the cases in nothing; for they had neither lawfull cause, nor sufficient authority on their side to maintaine resistance; as *Sir Iohn Hotham* had. Againe they were Traytors before by their horrid unnaturall and cruell attempt; But I hope *Sir Iohn Hothams* bare seising of the Towne could not proclaime him Traytor; But enough of this in a case so manifest. He may as soone convince a man of common sense, that black and white are the same colour, as that these cases runne parallel.

Here whole Nations being exposed to enmity and hazard, being uncapable of flight, must yeeld *Obs.*
their throats, and submit to Assassins, if their King will not allow them defence.

There is a great difference, betwixt a Subjects defending of himselfe, and offending his King. *Ans.*
His feares are over witty, if they will not permit him, to thinke himselfe safe, except he get into one of the Kings Forts for his better security.

Without question he that may defend, may offend; for how is it possible that I should defend my selfe, if I may not offend my enemy? What a senseles thing, and void of reason is it, to maintaine that Subjects may take up Armes to defend themselves, against the unlawfull Tyranny of their Prince; but yet upon his approach they must not use any hostile act, but stand like so many stocks, immoveable what is this but *oppositum in objectu*, a flat contradiction; or a taking up of Armes in iest, to make me capable of losing my life in earnest? If this were all we could doe, the most facile way for wicked Princes to accomplish their ends, would be this, by Tyranny and oppression, to ingage the people, in this imaginary defensive warre, thereby to disarme them, and force obedience to their unjust desires: or slay them with their owne weapons. But to passe this. If a King shall take up armes to destroy his people, no question law, reason and pollicy will warrant their seising of any fort, or publique place of defence, for their owne better security. *Rep.*

See if we are not left as a Prey, to the same bloody hands, as have done such diabolicall exploits in Ireland &c. If we may not take up armes for our owne safety, or if it be possible for us to take up armes, without some votes or Ordinances to regulate the Militia. *Obs.*

Subjects upon invasion, would not have wanted Commission to take up armes.

But upon a civill combustion they might; Hee that will give me power to fight against his enemy; will not give me authority to oppose himselfe; but doubtlesse this is no rule in the Politiques, for a man first to receive one blow, and then to stand upon his guard, to keepe off the second, better by a vigilant providence to prevent both; or to expect an invasion, and then be to seke our Commission, enemies are more easie kept out, than they can be repelled, when they are once in. *Ans.*
Rep.

I, but he saith, *this would be of ill consequence to subjects, if they might have power to take up armes, as often as ambitious cholerick men for their own ends shall perswade them they are in danger. For by this meanes, being easily deceived, whilst they endeavour to avoyd false, they would run them selves headlong upon true perils.*

Thse ambitious men (which he himselfe knowes not) and these pretended dangers (because he himselfe feares not) have a strong influence upon the Authors whole booke; Tis very much that the reason and senses of a whole Nation, should be so easily captivated. But tis his onely plea, and therefore you must give him leave to make use of his pretences, or you bid him silence. Well, to tell our Author once for all; as no man can or will justify a pretended cause of feare so no man can condemne a reall. And without he will say, that there can be no cause of feare, without he be privy to it; this aspersion is by no meanes to be suffered; for by this we shall never know how to beleeve that we are in danger; for that true feares may be blasted with the ignominie of feined and pretended carry the visage of true.

The King sayes; the Parliament denyes &c. to whether now in this uncertainty, is the Subject bound to adhere? *Obs.*

Anf.

we may consider whether the Houses, doe not barely say; and whether his Majesty doth not descend so farre, as to give reasons for what he doth, and to shew the Kingdome the ground of his actions, by perticular citation of the Lawes, which justifie them.

Rep.

What the two Houses of Parliament barely say; then belike, if his suffrage be of any account, they prove or make good nothing. Was ever age guilty of so great irreverence, or of offering so great an affront and in lignity to this great Assembly? Of whom, as the law saith, we ought not to imagine a dishonourable thing, much lesse to speake it. I am confident that all Historians that ever were, cannot give you one example of so high disdain and presumption. What the two Houses barely say? He hath a great measure of confidence that dare say it, for my part I dare not returne the contrary, but I leave it to the whole world to judge, whether that they do not exactly prove and maintaine their owne assertion; and utterly disprove and destroy the contrary objections and conclusions. I, but saith the Author, *we ought to agree, whether swerving from law, be to be judged by the actions, or by the Authors; that is, if the King should have done what ever they did, and the Houses, what ever he did, whether all would not then have been legall, because don by them.* Certainly tis no good way of iudging, to conclude the legality or illegality of an action from the Author or Actor, tis the applying of the rule to the action, that denominates it, either good, or bad. However we ought not totally to reject these circumstances, of place and persons, for no doubt that in some cases may be lawfull for one, that will not be lawfull for another. And it is more than probable, that the Parliament may in many cases have a more extensive power than the King; However certaine I am, that it is but charity in our Author to grant them his beleife; that they will not approve or maintaine that in themselves: which they condemne as illegall in his Majesty. *The King doth not desire to captivate any mans understanding to his authority, but is willing to make all the world the judge of his actions.* And have the Parliament withheld any thing, that might give satisfaction to the people? *Neither is a blind obedience a part of any mans duty to the Houses.* Hee, who after so great light and evidence of the integrity and justice of the Parliaments proceedings, shall say, he obeyes, he knowes not upon what grounds; may justly be concluded to be *Non compos mentis*, robbed of his senses. *Some things he saith, are matter of fact, here we may be guided by senses, and judge as wee see.* With the Authors favour, this to an ordinary capacity, may be a dangerous way of determining; for though wee must alwayes judge according to the outward sense in matter of fact; yet wee must have this caution, that we goe no further, as for instances; If I see one enter and seise a Castle, or fort of the Kings (put the case Hull) that he did enter, that my sense directs mee to discern, but whether he keepe the possession for, or against the King, that is examinable upon other circumstances, and is matter of law, depending upon reason and judgement, and this every ordinary capacity cannot judge of. But saith he, *this every one may judge of, whether the King hath seised on any thing wherein the Subject hath a property?* That he lieth upon the power and priviledges of Parliament, the best evidence to maintaine the title that we have to all that ever we enjoy; *Or whether that the Subject hath not seized on something, wherein the King hath a property?*

That we must yeeld affirmative to, that the Subject hath not seized on the Kings property; but it is to his use and behoofe, for the securing of him and his people. So that the King looseth nothing, but both gaine protection and safety thereby. *whether the King hath raised warre against the Parliament, that is; whether his guard was an Army.* A very strang and unusuall guard of 15000. or 20000. And *whether Hull is now London,* Very manifest it is not, but the forces, that found no better successe approaching London, may (for ought I know) make a speedy retreat to Yorke againe.

Obs.

wee had a Maxime, and it was groundd upon nature, and never till this Parliament, withstood, that a community can have no private ends, to mislead it, and make it injurious to it selfe.

Ans.

True, in a state where a collective body assembles: and the reason of it, is evident, for though every man aime at his greatest perticular interest, yet except it be agreeable to the interest of the Major part, it will never passe into an act, and if it be advantagious for the most, it is to be esteemed publique; Now what service this can do the two Houses, I cannot see, because they are a representative body.

Rep.

O, yes, very much; and let me tell you, none could have said more in their vindication, for to retort your owne language upon your selfe, though every man in Parliament, aime at his greatest perticular interest, yet except it be agreeable to the interest of the Major part, it will never passe into an act, and if it be advantagious for the most, it is to be esteemed publique. But you will say, it is indeed to be esteemed so: and yet in truth it may be otherwise.

First, this ought not to be presumed; and againe, I dare confidently affirme it, that the Major part of 3. or 4. hundred, may carry as publique Spirits, and as free from selfe respects, or

or the persecution of Private interest, as the *Major* part of the collective body. And no doubt had not our predecessours at first, and all the succeeding ages since, been possessed with these thoughts, two should not have satisfied every Burrough, nor the like number every County, I, but he saith, *the reasons why this Kingdom hath seldom suffered under the corruptions of a Parliament.*

He doth well to say & seldom indeed, for he cites no example of this nature; and had there been any such, I know the Author would not withhold them, are *First, for that it was a Court, for the most part, but of short continuance, so that they hold not time to mould and fashion their aims; and when called together againe, the body was much altered.*

The Author, no doubt, had hee beene so well disposed, as to have done his Countrey that right, could have shewne us many Parliaments of long continuance; and when he had done, not have beene able to have charged them with the least corruptions; But hee is mightily carried away with vaine imaginations and suppositions. He thinks short Parliaments, had they beene long, would have beene adulterated, and *donis empta* corrupted with gifts, like the Senate of Rome, which, he so much instances in. Had he ever beene acquainted with charity, it would have taught him better surmises of his private brother, much more of so great and reverend Assemblie as the Parliament, But his *second and chiefe reason is, for that the final determination is not in one, nor two hands, but the joynt consent of three estates is necessary.* 'Tis true, for the making new lawes, or altering, or repealing the old; But not so in case of declaring of the common Law of the land, for that the two Houses may do, as an ancient right belonging to that supreme Court, without the consent of his Majesty, and why this power should be conceived more to traduce this Parliament, (as our Author labourerh to insinuate into our beleife) than it hath done others formerly, seemeth to me a Mystery.

The king may safely leave his highest rights to Parliaments.

If this be all the motive, he may as safely keep them.

Must the Kingdome be put to confict with utter ruine, and destruction, the sad (but certaine) issues of cruell warre, for want of that, which being granted by the King, would no way prejudice his right, and being enjoyed by the people, would bring great happinesse and security to both.

None knowes better, or affects more the sweetnesse of this so well ballanced a Monarchy.

I beleieve they affect Monarchy; why then doth this Author endeavour to take it away, by denying the king power of dissent, which our Ancestours inviolably preserved, as a most happy restraint of Aristocracy or Democracy.

It is said, that by debating or reasoning of a thing, a man shall thereby be brought at last, to discover the true reason. Which certainly our Author will never do; who labours to defend one falsehood by another, the subverting of Monarchy by denying of the King a negative voice. None can speake more (that is not a ravished doctor, or fauning parasite) to testifie his affections to this admirable and well established Government than the Author doth. Neither doth he throughout his whole booke, deny the Kings Prerogative of a negative voice. All that he undertakes; is but to shew them their *ne plus ultra*, and to delineate and demonstrate the true circumstance and boundaries of Royalty; and whether this be an endeavour to take it away, let the weakest capacity judge.

It hath beene often in the power of former Parliaments, to load that rule with greater fetters and cloggs, but they would not.

A very good argument, there is little reason now to do it.

Their defending of their just rights and priviledges, is no loading or setting of Prerogative, but a keeping it in its equall and due proportion.

The Observator having shewed the exact and Geometrical distance that the three estates keep, one having no power to hurt or prejudice the other, but all labouring exactly for the good whole, exhorts us, *not to seek to corrupt this purity of composition.*

Very good counsell: but which he overthrowes in the words immediately following.

Is not a perswading of the King that his Parliament intends the divesting of his ancient prerogatives and rights, and which is more, the dissolution of Monarchy; and by these subtle insinuations, dividing him from his Parliament, a meanes to corrupt this purity of composition? Why then no doubt, his words following are very seasonable, *That wee must not conceive that both Gentry and Nobility, can combine against the king.*

Therefore it will be fitting for the king to leave all to their disposall, who certainly can doe nothing but what is fitting.

This is the Authors construction and conclusion; But tis very strang that he should raise it out of this text, that because the Parliament cannot combine against the King, therefore it is fitting for the King to surrender up his power to the Parliament, I dare say that such a rule

Obs.

Ans.

Rep.

Obs.

Ans.

Rep.

Obs.

Ans.

Rep.

Obs.

Ans.

Rep.

Obs.

Ans.

Rep.

and predominancy never entred the thoughts of any one, but himselfe. Is not the conclusion more just; that therefore this will maintaine the Parliament in defending their owne rights? Doublesse it is. For my part, my Vote shall alwayes be, that the King may sway his Scepter in its just extent and latitude, that the people may be made to know their due distance; and that the Parliament enjoy their ancient rights, that the King may not usurpe upon liberty.

The Observator having shewed how that no change of Government can be advantageous to the Lords and Common: hee descends to shew, how that though it might, yet it cannot be effected,

Obs.

For that their power is meere derivative, so that except wee will conceive that both King and people will be consenting to the usurpation, nothing can be done.

Ans.

Then it is confessed, the King hath a right of dissenting.

Rep.

Confest our Author thinks hee hath here got a great advantage of us, out of our owne confession) why, was it ever denied that the Kings consent was not necessary, to the making of new lawes, or to the altering or repealing of the old? Nay, hath it not beene agreed that his assent is so essentially necessary in such cases, that if he will dissent (as hee may) nothing can be done without him? why then a *fortiori* he shall have a negative power, where the alteration of the forme of Government is propounded. But he must understand, that this doth no way derogate or detract from the right of the Parliament in declaring the common law of the land in certaine cases before them, without his Majesties consent, for that that is a power incident to this great Court, as well as others inferiour, and in such case the King hath no negative voyce.

Obs.

Except both King and people.

Ans.

Here (saith hee) a power is given to the people collectively beyond the Lords Commons and King.

Rep.

If ever he make good this collection out of the Observators words: He renounce my understanding. All that he seeres to intimate unto us, is but this, than the changing of the auncient established forme, of our Government, is *casus omissus* out of their Commission; and therefore not to be accomplished by them, without the consent of both King and people. Hee doth not say, that the Collective body may doe it, without the consent of the King, Lords and Commons; This happily might be a predominant power; but that their consent is necessary, for the introducing of a new frame of Government. Now, how this should be, a transferring of a power to the people collectively, beyond the Lords, Commons and king; I must confesse I apprehend not; therefore the construction is either very forraigne, or my capacitie extreame dull.

Obs.

If the King be an affeeter of true liberty, he hath in Parliament a power as extensive as ever the Roman Dictators was, for the preventing of publike distresses.

Ans.

He saith that though the Romanes could not indure a King, yet in effect they had the same thing, for in any imminent dangers, necessitie of State forced them to chuse a Dictator, which (as he sayes) had absolute power over them) and to submit to his Authority, which relieved them in their greatest extremities. Hence (he saith) we may make the truest judgement, what forme of Government the wisest Romanes esteemed most convenient. And concludes that since they preserved the unbounded power of one to a popular sway, we have no reason to change the much more happy temper of this Government. &c.

Rep.

May all the blessings of Heaven and Earth enrich and incompasse his Royall Scepter; May he for ever enjoy the utmost limit of his just and legall power; And may this happy glorious successefull (and never sufficiently to be encomiasted) Government continue (without the least interruption) amongst us; untill time hath spent its last period, and brought a dissolution and finall conclusion on all things; And I take him to be no true and faithfull member of the Common Wealth that will not say Amen.

Obs.

If the Counsell of the Parliament were directly opposite to common understanding, and good conscience, and the Councell of the Court were evidently consonant thereunto, there needed no such contestation.

Ans.

If the Councell of the Court were directly opposite to common understanding and good conscience, and the Councell of the Parliament were evidently consonant thereunto, there needed no such contestation.

Rep.

That the Parliament and Court should be at variance, tis no news, there hath beene alwayes a secret enmity and antipathy betwixt them. The Court never well digesting the happiness and freedom of the people, nor they the oppression, and publique disservice of the Court; the one still contending for an absolutenesse of soveraigntie; the other for the maintenance

nance and defending of their liberty: But I never heard before that the Counsell or advise of the Court was opposed to that of the Parliament; or could any way ballance with that: doubtlesse they are not equall competitors; the Parliament represent the publique, and those counsellors themselves onely, the one studies to augment the Common wealth, the other their owne: wherefore he is perfidious to himselfe, and treacherous to his countrey, that can be so transported with words, as to renounce the Parliament for my part, I shall lay it down, as one of the Articles of my beleife, that the Counsell of the Court is directly opposite to common understanding, and good conscience; and the Council of the Parliament, evidently consonant thereunto: good cause then of contestation in defence of the publike.

The Observator having laid it downe as a ground that it cannot reasonably be supposed, *Ob.* the greatest counsell of the Kingdome should not give the most faithfull advise, adds; therefore Princes if they may not be lead by their owne opinions, rather than by the sacred and awefull counsell of whole Nations, unreasonably complaine, they are denied liberty of conscience, and ravish'd out of their owne understandings.

I appeal to any mans judgment, whether any thing can be urged for the authority of a Lay *Ans.* counsell, that it ought to enforce a submission of judgment, and a performance of duties arising from trust agreeable thereto, which may not with (at least) equall advantages, be pressed for the same binding power in counsels Ecclesiasticall; And yet there (he saith) it would go hard, but a man would find some answer (as easily he might) whereby to iustifie his liberty of dissenting in somethings which he saies, we may with very little alteration apply to civill counsells.

I confesse this is a point more fit to be decided by a Divine, than a Lawyer, but tis not frequent with me to trespasse upon another mans profession: therefore give me leave a little, that our Author may not passe unanswered, to speake my thoughts in this perticular. Now (with the favour of the Author (if my judgement faile me not) there is a wide difference, as to our case betweene lay and Ecclesiasticall Counsells. For I take this for a certaine and cleare truth in divinity, that no Ecclesiasticall counsell whatsoever (be it of never so great ability or eminency) can oblige the conscience of a man by their dicisions or determinations; for that the conscience of a man, is (if I may so speake) out of their jurisdiction, tis God alone that hath power over that. Besides he that opposes the dictates of conscience sins against God. The Apostle in the 14. to the Rom. Shewing how men ought not to contemn or condemn one another for things indifferent sayes in the 5. verse, one man esteemeth one day above another, another esteemeth every day alike; let every man be fully perswaded in his owne minde. By this tis manifest I ought not to be guided by the conscience of other men. Again ver. 14. there is nothing (saith he) uncleane of it selfe: but to him that esteemeth any thing to be uncleane, to him it is uncleane, by this likewise, it is cleare that what my conscience perswades mee is unlawfull (be the judgement of other men what it will) ought not to be enforced upon mee. Again the last verse, He that doubteth is damned, if he eate, because he eateth not of faith; for whatsoever is not of faith, is sinne. So that for my part I take it, as an unquestionable truth, that no Ecclesiasticall authority whatsoever hath power over a mans conscience, though it be, but in things indifferent. But now on the other side, I take it to be as evident and as undeniable an assertion, that any Lay counsell may in matters meerely civill or morall, no way reflecting upon the word of God, oblige the conscience (which indeed is but the bare opinion and judgement of a man) by their conclusions, and determinations; and in such case tis no sin, for a man to oppose his owne reason, by submission to the judgement of others. And if this were not a truth, Justice would be but flow payed, and the law as various as the severall dispositions of men, and every man would have power to infringe the law upon every idlesancy of opposition to conscience. But the Author goes on, and tells us that though amongst probable Arguments, that drawne from the Authority of wise men, carry with it greatest weight, yet it must give place to a greater reason. Tis true; where the greater or better reason is evident; but wee are not bound to renounce our owne understanding, and to believe that to be the better reason, which you affirme to be so. The Parliament must in strength of probability give the better reason; and when you can prove the contrary (which as yet you fall much short of) then shall we be of your beleife, untill then you must give us leave to retaine our owne. Now to every man belongs a judgement of discretion; which must decide for what concernes his perticular duty. Tis true where he is sole Arbitrer, and where it concernes his owne particular onely; but where the publique is interested, there it is otherwise. So (hee saith) in the Kings case. The Votes, which carry in them the authority of both Houses, shall beare great sway, and if it be in things extreamely dubious; they may turne the Scales of the other side. This truth, if firmly stood to (as it ought) would suddainely period this sad contestation. But alas, how quickly tis broken. For he saith, if greater reason seeme to contradict them, his Majesty will not hoodwinke his understanding, and blindly follow, whether they please to lead him, he will walke by the greater light.

greater reason, very much that the reason of the Court, should preponderate that of the Parliament; For example (he saith) his Majestie perceiving how much his people may suffer under arbitrary power, is resolved never to make use of it, and thinks it lesse fitting any other should. I would to God his Majestie had never been wrought upon by his evill Counsell to break his resolution. Is it not an arbitrary way of rule for to take away mens property without their consent? And is it not arbitrary for the King to preserve his owne single ex:rajudiciall judgement, before that of his Parliaments.

But it is told him now, the use of it will bee for their good, by reason of apparent imminent dangers.

Hath the Author thus informed his Majestie, certainly never any one else did, it were happy both for King and people, that it were no more practised by the Court, than it is by the Parliament.

Obs. Concerning the Action at Hull, the Observator agreeth, to take possession of the Kings Towne, and shutt the gates against him, is treason, if circumstances doe not vary the nature of the act, as in this case, he sayes, they doe, for the first thing to be lookt on is, that the King was meevely denied entrance for that time, his generall right was not denied.

Ans. If then a subject take up armes against his Sovereigne in a temporall warre, it must not come within the compasse of treason.

Rep. No, whether it be temporary or continuing, so he hath the same Commission to justifie his action. And he may legally possesse himselfe of the Kings forts, and maintaine them against him, so he confesse he hath no right in them. Tis not his confessing that he hath no right, for that all the world can judge of, but his doing no wrong that excuses him.

Obs. No desing language was given.

Ans. If a man take away my purse, shall he be acquitted from felony, because he did not give mee ill language too?

Rep. *Inventio tua nomen imponit operi tuo*, tis the invention (as we say in law) that denominates the action. And therefore though I cannot acquit him of felony that shall take away your purse, and in exchange give you only good words; yet if he shall rescue your purse out of the hands of Robbers, or take it from your owne person being in danger, for its better security; and shall againe faithfully restore it, when you have liberty to enjoy your owne: if he be felon, lledye for him.

Obs. No act of violence was used.

Ans. This he may say, who hath picked anothers pocket; but it is no sufficient plea against the Law.

Rep. Yes, if he can shew a lawfull commission for it.

Obs. But he used no violence, though the King for divers bowes together, did stand within Musket shot, &c.

Ans. It is no argument of innocence, that he had opportunitie to be more highly guilty, and abstained.

Rep. Tis true, had he beene guilty at all.

Obs. The King used termes of defiance, &c. and this makes the Act meevely defensive, or rather passive.

Ans. If this were true, there was never any warre, but defensive. For those who by some great injustice offered, provoke a nation to right it selfe, fight as well to maintaine their lives, as what they unlawfully possesse.

Rep. Tis certaine, those that offer any injustice or wrong, though they take up armes to secure themselves, are on the offensive part, not the defensive. But this rests to prove in our case.

Obs. How this should administer to the King any grounds to levie guards at Yorke, many men wonder, or that it should seeme the same thing to the King, as if he had beene pursued to the gates of Yorke.

Ans. Certainly it was a sufficient ground not only to raise a guard, for his safety; but an Armie to punish that high indignitie, and to right his honour.

Rep. A Guard for his safety; why Sir John Horham did not advance towards Yorke; nor ever purposed it. An army to punish that high indignity. Very just it should be so, had there beene any offered. And to right his honour very reasonable, had his Majesty beene any way dishonoured?

Obs. If the Parliament have bene upon turned any of the Townesmen out of their estates.

Ans. His Majesty did not charge the two Houses.

Rep. No, why if he be a Traitor, who acts only by their authority, pray what are they? I but he saith Sir John Horham kept him out, without any publike order from them. This is but your bare assertion which is not to be credited before the Parliament. But if it had beene so, that they had beene turned out of their estates, he sayes the same law would have justified this act as well as the other.

So it would; had the *primer seisin* of their estates beene of the like consequence and concernment to the publike. But, he sayes, since not only the Countrey about, but the inhabitants within the towne have suffered in their estates and liberties.

If any have suffered without, they may thank the unlawfull assaults of others: if within, their unfaithfulness to the Common wealth.

Or if they claymed any interest in it to themselves.

Obs.

So much the lesse reason to seize on it, if he cannot so much as pretend title to it.

Ans.

Tis sufficient if the common Wealth clayme an interest in it, though he doth not.

Rep.

Or have dissuaded the king, utterly denying his right for the future.

Obs.

If any law can be produced to justify the taking away the kings goods for a time, the case will be cleared.

Ans.

If any law, or evidence can be produced to justify the towne of Hull to be the Kings goods otherwise than with reference to the common wealth, for the good of which he is intrusted with it, then happily the case may not be so evident.

Rep.

Or have made any other use of their possession, but meere to prevent civill warre.

Obs.

There is not any way more likely to create a civill war, than indeavours to prevent it, by illegall courses.

Ans.

Very just if you could demonstrate any illegall courses that have beene taken.

Rep.

If the Parliament (the shutting of the King out of Hull was not their act) if the Act of the substitute, be not the Act of him that doth authorize him; then I understaund no law, be not virtually the whole kingdome it selfe.

Obs.

The King excluded, it is not.

Ans.

Tis certaine, but if he exclude himselfe, then it is.

Rep.

If it be not like supream judicature, as well in matters of State, as matters of law.

Obs.

Till new lawes be enacted, the subject cannot justify any act, but what is warrantable by the old.

Ans.

This is an unquestionable truth, if the Author doe not corrupt it by this false glosse, and interpretation; he must know, tis one thing to declare the common law, another to enact a new law; the subject may justify an act, by the authority of Parliament, without his Majesties consent in the former, not so in the latter.

Rep.

If it be not the great Counsell of the kingdome, as well as of the king, to whom it belongeth by the consent of all nations, to provide in all extraordinary cases, ne quid detrimenti capiat respublica let the brand of treason stick upon it.

Obs.

No provisions are allowed, but what are legall, least the remedies prove worse than the disease.

Ans.

Very right, but circumstances may vary a case. And that may, and ought to be legall at one time, that neither will, nor can be so, at another. And in extraordinary cases, extraordinary provisions, may be made, and ought not to be branded with injustice, or breach of Law.

Rep.

Nay, if the Parliament would have used this forcible meanes, unlesse petitioning would not have prevailed.

Obs.

It is no just cause to take away a mans money, and said he did first desire him to deliver it.

Ans.

Clear law; and the cases will no way vary, if the Author can prove that the King hath as absolute a property in the towne of Hull, as any man hath in his money.

Rep.

Or if their grounds of jealousy were meere vaine.

Obs.

It is against all equitie, to doe a wrong, because there is a possibility of suffering it.

Ans.

Right, but I hope you will prove now, that there is a wrong done, and not argue this by way of admission. Besides, it is against all reason that a whole Kingdome should be put to suffer a wrong, out of a meere possibilitie of doing one.

Rep.

Or if the Jealousie of a whole kingdome can be counted vaine.

Obs.

Too large an expression, much the greater part of the kingdome apprehend unjust grounds of jealousies.

Ans.

Very good, is not this the Doctrine of division that I impeach our Author to be guilty of before. The Parliament have formerly beene esteemed the representative body of the whole Kingdome; But belike now is otherwise, they have (I know not how) lost this honour and priviledge; or it is unjustly taken from them. In the easing us of these many pressures, which lay so heavin upon the Kingdome (for which we and our whole posterity are eternally ingaged unto them) there they did represent us: and their actions for our benefit, had an influence upon the whole Kingdome. But if they tell us through their vigilancy and great care of us) that we are like to be reduced to a worse condition, through the malicious counsell of those men that

that wrought our former miseries, if not timely prevented; there they sit in a personall capacity only, and we are not bound to believe that we are in danger, because they say so: No, alas they are a seditious, factious and inconsiderable number; who intend to raise their own fortunes, upon vaine pretences of danger, out of the publike distractions. O the wit and power of malice, that should thus work upon men, to renounce their understanding, neglect their duty and incur the publike ruine, upon a meere possibility that they may be seduced by the Parliament. But tis very much that the Author should dare to affirme, that much the greater part of the Kingdome apprehend no ground of jealousie, belike he hath travailed the whole Kingdome over, and examined men by the Poles, and taken every ones suffrage, and so upon the whole cast up on every side, is able to render you this account, or otherwise hee could never make good his assertion.

Obs. Or if they claime any such right of judging of dangers, and preventing of them without the Kings Consent as ordinary and perpetuall.

Ans. As often as they have a mind to make use of such a right, tis easie for them to call the case extraordinary, and pretend publike dangers.

Rep. If it shall be suffered that their sole private judgements and determinations (which are of so great waight and credit, that they ought to awe us to a belief of them) shall be blasted with the scandall of vaine and pretended; how can it possibly be, that there should fall out any case extraordinary?

I, but the event ought to be Judge; and (he sayes) they will never be confuted by that, if not now, for certainly apparent dangers did never lesse appeare.

Admirably ingenious, were it not a pure contradiction: for doubtlesse, if apparent dangers; they must be scene. But let me tell you, that the issue or event is no certaine determination of an imminent danger: a provident care (as now) or an unexpected interposing providence (as in case of the Gunpowder plot) may prevent the blow; shall we therefore conclude it was never offered?

It would more abundantly have satisfied me, if I had bene frighted with secret plots and concealed designs.

Doubtlesse those, whome apparent and visible dangers will not frighten; secret and concealed cannot.

Obs. The King might have prevented the same repulse by sending of a messenger before hand.

Ans. That is, if he had not come to get in, he had not bene shut out, if he would have stayed away, he would not have denied him entrance.

Rep. A very apt conclusion, and it had bene happy his Majestie had found so good advise, as to have saved his labour.

Obs. Or by coming without any such considerable forces.

Ans. Let his forces be great, he was not to give law to his Prince.

Rep. No; nor any privie Counsell to the Parliament; But neither is it likely hee would have have admitted him then, for you confesse a little above, he offered to enter, with twenty Horse only unarmed. Whether his Majesty made any such proffer or no, I know not: nor is it materiall, for twas not the paucitie of number, that could excuse his breach of trust.

Obs. The Scots in England tooke Newcastle, but by private authority, yet there were other qualifications in that act, sufficient to purge it of Treason.

Ans. The king and Parliament deserved so much respect from you, as not to have instanced so frequently in their Act; you might well let that passe in silence, which they have buried in an act of Oblivion.

Rep. Tis no wrong, either to King or Parliament, for a man to say that is no treason, which they have adjudged not to be so. Neither is that act of theirs so to be buried in utter silence, as not to acquit and discharge us, if we can plead the same innocency.

Obs. Then the Observer instances at large, in the example of Edward the second, misled by Spencer.

Ans. It doth not follow, because one king hath hearkned to evill Counsell, therefore all must be denied the liberty to hearken to good.

Rep. That is true, but it doth clearly demonstrate thus much, that others may be misled as well as he, and when a Parliament shall declare (as now) that the King is misled by evill Counsell, tis not your bare averment, that can make good the contrary.

Obs. Spencers partie was but of inconsiderable fortunes.

Ans. He will get no advantage by putting mens estates into the scales, and ballancing their reputations.

Rep. What odds may be gained in point of estate, I know not (though I am confident there will

will be nothing lost) But without controverſie, their reputations cannot be very good, whole cauſe and counſell is ſo bad.

An *Aristocracy* in Parliament, cannot be erected without ſome meanes, and what this meanes ſhall be, is yet to us altogether inſcrutable. *Obſ.*

Certainly he is quicker ſighted, than not to perceive what is ſo obvious, deny the King a negative, and the thing is done. *Anſ.*

Had the Parliament (as in truth they never did) denyed the King a negative, yet the Author (who pretends to be ſo quick ſighted) would find it a matter of greater weight and difficulty, than to be ſo eaſie compaſſed and effected. *Rep.*

The power of the Parliaments is but derivative, and depending upon publick conſent. and how publick conſent ſhould be gained for the erection of a new unlawfull, odious tyranny amongſt us is not diſcernable. *Obſer.*

It is not thought this was the intent of thoſe that intruſted them, but it may be the abuſe of power, if the Kings authority be once ſwallowed up in theirs: for though their power depend upon a publick conſent in the election, yet not ſo after they are met together. *Anſ.*

If the power of Parliament be meereſly derivative (as it cannot bee denyed) and that not abſolute and illimited, but qualified and circumscribed (as it muſt bee agreed) why then the conſequence is very juſt, that where they doe exceed that power, this doth not ingage the conſent and obedience of the people; why then without we ſhall allow that the peoples vote, and conſent may be had (which is ſo far from improbable, that it is almoſt impoſſible) we may here judge, what an idle fancy and vaine dreame this is of their labouring to introduce an *Aristocracy*. He ſayes that He believes they would not be able to goe through in that new way. But yet they muſt needs have a great party; conſidering their ſeverall relations, and the advantage they have in advancing the intereſts, whether religious or civill, of ſome, which may be able to doe them ſervice, and this would create diſſiſion in the Kingdome. Our Author muſt vent his contumacious and opprobrious conceits againſt the Parliament; though they be a contradiction to his owne reaſon. What are their ſeverall relations compared with the publick? or what advantage can their power of preferment yeeld them, (ſince but few can attaine to that) in the ingaging of a whole Kingdome to erect ſo unlawfull and odious a tyranny? *Rep.*

His Maſteſty expreſſes his indignation, that they ſhould dare to tell their King, they may without want of modeſty or duty depoſe him. To which the Obſervator answers, This cannot bee collected from theſe words, That if they ſhould make the higheſt presidents of other Parliaments their patternes there would be no cauſe to complaine of want of modeſtie and duty, becauſe (ſayes he,) it may juſtly be denyed, that free Parliaments did ever truly conſent to the depoſing of any king of England. *Obſ.*

What was there affirmed of Parliaments, had none of his preſent reſtriction of free in it. *Anſ.*

What though it had not any candid and ingenious reader would ſupply it, by a faire intendment; we ought not to ſtand upon our captions with the Parliament, whole words and actions ought (if we will be guided by the rule of law) to receive the moſt honourable and favourable conſtruction of us. Wherefore we ought not ſo critically and unjuſtly to imagine, when they doe generally mention the higheſt presidents of other Parliaments, that they doe include forced parliaments, becauſe (as they well know) theſe are not presidents, for free Parliaments to bee guided by. And doe they not by their Declaration dated the ſecond of November 1642. (which I make no queſtion, the Author had a view of before the publiſhing of his booke) ſay, that in that Declaration, to which this objection refers, they delivered, that they did never ſo much as ſuffer this to enter into their thoughts. And further that ſome presidents were ſuch, as that they ought not to be rules for them to follow; which very reaſonably and probably might intend thoſe of depoſing Kings. How dare then the Author, (though not expreſſly, yet tacitly) accuſe the Parliament of being guilty of the maintaining that poſition contrary to their owne publick profeſſion and vindication? But I paſſe it over, and leave him to his juſt cenſure. He ſayes, that the King is offended at their frank expreſſions, diſguiſed under the charge of a malignant party. The ſenſe of his answer is this, they have no other way to cleare themſelves; for there being faults ſomewhere, not to lay them upon others, were to take them upon themſelves. Happy were our condition if his Maſteſties evil Counſellors could ſo eaſily acquit themſelves of any wrong done to the publick, as the Parliament can, but then he goes on and ſayes, that his Maſteſty hath propoſed a very good way, which will fully ſaſtisfie the world in their innocency (I hope the world is ſufficiently ſaſtisfied without that) which is not alwayes to accuſe, but ſome times to prove. A moſt unuſuall and illegall way, was it ever heard of or knowne, that evidence ſhould be produced againſt any man for any kind of delinquency, before the party was brought to his tryall? were very unjuſt to condemn a man, not ſeeing his Accuſers, nor hearing their evidence; I rather believe it is to be a propoſition of the Authors coyning, than to proceed from his Maſteſty. And if any Meſſenger were ſent from the Parli- *Rep.*

be a proposition of the Authors coining, than to proceed from his Majesty. And if any Messenger were sent from the Parliament, (as I believe one was) to demand a delinquent accused by them; he might have been sufficiently beaten for his paines, and have returned without him. How then could the Parliament make their prooffe in a legall way, according to this proposition?

Obs. The King demands justice for Tumults, and high indignities offered, and complaines of a prohibition, sent from the House of Commons into Southwarke, to hinder the proceffe against a Ryot according to law. The Observators answer is, *Equall justice could not be obtained against the Court Cavaliers.* His Majestie never protected them from legall tryall, it was free for them to have proved what they could against them.

Ans. It must have been behind their backs then; which is a peece of admirable justice; and when they had made good their prooffes; they must have sent to Yorke, for to impeach and demand them and what success that journey would have produced, your judgment could easily informe you.

Rep. The king says it being granted by them, that their priviledges do not extend to Treason, felony, or breach of the peace, so as to exempt the members from all manner of tryall, yet if they be so priviledged in the method of their tryall, that the cause must first be brought before them, and their consent asked, before you can proceed, then their priviledges extend as far in these, as in the most unquestioned cases, because no priviledges exempt them from all manner of tryall, the House being acquainted and leave given. I take the law to be (pardon me if I judge amisse) in all cases of a criminall nature, where the person may be seised and sequestred: there though he may be arrested, or detained to appeare before them, yet he cannot be proceeded against in any other Court or way than in Parliament, whereby he may be taken or detained from the service of Parliament, without their consent, and this is no exemption from tryall, but only a priviledge in the method of it. But now on the other side, in all civill causes, if they demand their priviledge, tis the frequent practice to allow it them, and this doth totally suspend the prosecution of the suit or tryall. I but he saith. It was fully intended the members should have had a legall and speedy tryall. It cannot be conceived so, since his Majestie was advised to make such an unusuall and illegall impeachment, and prosecution against them.

Obs. The Parliament do not deny the king a true, reall interest, in any thing had by him, either in iure Coronæ, or in iure personæ, but only affirms that in the same thing the State hath an interest paramount in cases of publike extremity, by vertue of which it may justly seize and use the same for its owne necessary preservation. The king is a part of the state, and therefore the other part hath not any power warranted by law, to do what they think fit to his prejudice, upon pretence of publike extremity.

Ans. We shall allow your assertion, that the King is part of the State, and that therefore the other part cannot without him, upon any pretence whatsoever, do any thing that may turn him in prejudice. But this doth tacitly grant that they may do any thing, in case of his discretion, without his consent, that is for his Majesties and the publike advantage, and if you had meant to make good your ground, by applying it to the case in question, you should not have reasoned thus by way of admission of that, that will by no means be allowed you, but you ought to have proved that the Parliament have done that which is a prejudice to his Majestie, and then your consequence would have been very just, whereas it is now but a meere scandalous and Libellious argument: I, but he says, this is Ship money: in every mans lands and goode the State hath an interest paramount, in cases of publike extremity, by vertue of which it may justly seize and use the same for its owne necessary preservation. Doubles no man who pretends to knowledge, were not his reason and understanding captivated, would go about to perswade any man, that it is all one to be divested of his property by violence and oppression; as to part with it by free consent and donation; why this is all the resemblance or similitude that the Ship money and the proceedings of Parliament have then let all the world judge how these contraries can possibly run parallel. The head without the body was the State before; now it is a body without an head. Thats a monster of your making, tis not we. but you that divide the head from the body. I will not turn Prophet, but know if heaven be just, a crime of so great aggravation cannot passe unpunished.

Obs. But the kings things are still reserved for him in bitter hands, than he would have put them.

Ans. Though this were true, it were an ill president for the subject, who must be bound to give up his meanes, as often as they conceive. they could dispose it more wisely.

Rep. There is no concluding from the seising of Forts, Castles and the like, things meerly of public use and concernment, in which the King hath no other interest, but in reference to his trust, for the good of the publike. To the seising of any mans private or particular interest, in which he hath a sole absolute and unquestionable property. No, why heare what the Author saith, Let what will be pretended, the subject cannot be so stupid, as not to understand the few who undertake to manage the paramount interest of the state, may seise on any subjects fortunes, by the same right they take the kings.

With the Authors favour he is grossly mistaken: for though it must be agreed that the State hath an interest Paramount in every mans private property: and so if occasion require may call for

for a part, for the preservation of the whole (and upon such termes, he is unwise that will not freely disburse it) yet it doth not therefore follow, that this is seized by the same right, that the Forts & Castles are, which are meerely for the publike defence and security. For the Kingdom hath a peculiar & proper interest in the one, which it hath not in the other. And though necessity may justly demand both for the Publique safety, yet it is the proper worke and office of the one, not so of the other.

That, there is an arbitrary power in every state somewhere, tis true, tis necessary & no inconvenient follows upon it. If he mean by arbitrary a legislative power, this is granted, yet not to part but the whole body. *Obs.* *Ans.*

But what if one part do desert the other, and refuse to concurre with h. m., must that sit still and do nothing? But hee sayes, this speaks not to the case, for still they give us a certaine rule to live by. And do not the Parliament do the same? No law can be all equity, nor all equity Law, for so the one would confound and destroy the other, but there must be a certaine rule upon which to make this equitable construction. Why now I appeale to any one that knowes any thing of the justice of their proceedings; whether that they have not often laid downe this as an unquestionable position, that the King by his Prerogative hath the sole ordering of the *Militia*, of the Forts, Castles and Magazine throughout the Kingdome (why then here is your certaine rule to live by) onely they make this equitable qualification of it, (and I must say, that it were no just law, if it would not admit of this construction) that in case where the Kingdome is in imminent danger of forreigne invasion, or civill combustion, and that the King seduced by evill and Malignant Counsellours, will not receive their advise and Counsell for the securing of the same; in such case they, who are intrusted with the publike, may seize the Forts and Magazine, and settle the *Militia* for his Majesties and his peoples safety and preservation. And doth this any whit destroy the rule? Nay, rather doth it not maintaine and support it? I but he saith, that he is to justify, there is such a Paramount Law, which shall make other lawes truly Oracles, that is, capable of contrary meanings: so that now a man may be justly punished for doing such a thing, because he hath disobeyed the letter of the law; a weeke after he shall be justly punished too, for not doing of the same thing, because he hath disobeyed the equity of the law. This I shall justify, and yet let me tell the Author that this is no forcing or straying the lawes to contrary meanings, but onely a Declaration of the true intention of them. The Statute *de frangentibus prisonam* doth enact that it shall be felony for a prisoner to breake prison; the prison by accident is set on fire, the prisoners may in such case break prison for the salvation of their lives, and are no felons, and yet this is against the expresse letter of the Statute; and shall wee in such case say that this is a contrary meaning to the law? No, wee may not, tis cleerely agreeable with the intention of it. Againe the sole power of ordering of the *Militia* doth by the law reside in the King; and if in time of peace and security, the King duely discharging of his trust, any one shall dare to execute any other Commission, and by vertue of that shall traine, muster or discipline any of his Majesties Subjects, without his authority: there hee is justly punishable as offending against the letter of the law. But now on the other side, if in time of publike distraction, and feare of invasion from abroad, or of civill and intestine combustion within, the King shall refuse to hearken to the Counsell of his Parliament, and shall listen to such advise, as being followed may prove the utter ruine and destruction of the Common-wealth: In such case, if they shall take upon them for to order the *Militia* for the securing of his Majesty and people, and shall issue forth Commissions to that purpose; those that in such case shall disobey, may be punished for not submitting to the equity of the law. And yet still this is no contradiction or contrary meaning to the law, but an equitable & just explanation, according to the intention of it. And if this will not give the Author satisfaction, for my part I thinke nothing will. I but then he cites us Aristotle which saith *Those lawes are with greatest prudence established, which define most cases, and which leave nothing which possibly may be determined, to the breast of the judge*: And the Author gives the reason of it, for that to leave an ample and large construction according to equity unto Judges, may be a meanes to satisfy corrupt ends. Twas a wise saying of Aristotle, and no doubt tis a very admirable rule and direction, for all legislative powers; to make such lawes that might be their owne expositors; and that might (if it were possible) extend to all cases; that so the selfe respect or corrupted judgement of their interpreters, might not through the dubious, ample or various, sense of them be satisfied. But since it is impossible for them, so to foresee and enlarge the law, but they must of necessity leave some cases unprovided for, and some uncertaine, which must rest upon the judgement of the Judges of it. How doth it any way oppose law or reason, where there is not for all cases an exact provision, to allow a favourable and equitable construction? But then covertly alluding to the condition of our times, he tells us a large Story of the Anabaptists in Germany, and of the Thirty Tyrants of Athens; what a vast and large power they had got into their hands; by insinuating themselves into the hearts of the people, and how they did abuse that power by injustice and oppression; and so concludes that upon proportionable grounds and principles such mischiefs being then, may be againe. Could the Author have made a worse comparison, doubtlesse hee would; was ever greater dishonour or indignity cast upon a Parliament, upon such shallow, such

groundlesse and insequent reasons and arguments; The Anabaptists they abused Germany, the thirty Tyrants, Athens, and therefore the Parliament do England, the rest of His booke shewes this to be his meaning, though hee conclude with a (may be) though he had not regarded his own credit and reputation, yet hee should have had some respect to the honour and fame of his Country, and have studied a better resemblance, though he had not raised a better conclusion. The bad actions or impostures of some, are not infallible presidents for others to be judged by. But to advertise the Author that he do not for the future thus abuse his judgement and discretion; Let me give him this caution, when his heart shall suggest any ill of so great and reverend a counsell (whose actions ought to awe him to a good conceipt of them) to consider well the grounds and reasons of his mistrust, and when he hath done this, ponder on the great disproportion and inequality that there is betwixt so great a power, and himself, and this will either ingage him to a better beleife, or force him to silence. And let the people take this *Caveat*, that the subtile pressing and urging of the ill examples of other men, ought not (though it be most maliciously indeavoured) to perswade us to a beleife of the like corruptions in the Parliament.

Obs. The things taken from the King at Hull, were armes, which are of more danger than other kind of Chattells.

Ans. By the same law, all that part of the Kingdome which is not confided in, may be disarmed.

Rep. Good reason too, if in a publique combustion, they shall appeare in opposition to them, who indeavour nothing but the publique safety, and preservation. Nay, why may not their money be taken too, upon probable feare, they may buy armes with it.

If that probability can be evidenced by a sufficient prooffe, I see no reason any man should be permitted to buy a sword, to helpe to cut his owne throat, nay more, to hasten the ruine of the Common-Wealth. The Subject is in a miserable condition, that is liable to be undone, as often as they please to be fearefull.

Wee should be in a farre worse condition, if we should not feare, when we have just cause, and prevent the losing of the whole, by a wise parting with some small and inconsiderate portion. Let *Brainford* evidence this truth. I, but he saith it is so farre from excusing, it aggravates the fault to take away the Kings armes, that is, the meanes whereby he may seize whatever else belongs unto his Majesty. It doth much extenuate the fact, to seize those things which would be more immediate Agents or instruments in his Majesties and the publique ruine; I, but then againe hee sayes, that the law of the land hath onely intrusted the Prince with armes, so that the Subject ought not to be arrayed, trayned and mustered, but by his Commission; He sayes very much, and of great consequence, had it beene at another time. But as circumstances may vary a case, so I hope the Author will learne to distinguish betwixt a case in necessity, and one out of necessity. Betweene the Kings adhering to the advise of his great Counsell the Parliament, and his deserting of them, and betweene the due execution of his trust, and the breach of it. These layed together will much vary the case, and justifie the Parliament in their arraying, trayning and mustering without his Majesties Commission.

Obs. But some determination must be supream, and therefore either the Kings power and trust must be guided by the directions of the Parliament, or else the Parliament and all other Courts must be overruled by the Kings meere direction.

Ans. No necessity of either, for in cases of this nature, which is confessed to be extraordinary, if the King and Parliament dissent things must be at a stand, and the Subject must be obedient to the ordinary law.

Rep. Our Author doubtlesse hath a strong *Minerva* that could make so subtile a decision of a matter of so great controversie; But I beleive this concept was as soone penned, as it was thought on. For what is this, but in plaine termes to tell the Parliament that they might aswell have saved their labour. And that if a King seduced by evill counsell shall indeavour the destruction of the publique, yet it lyes not in the power of the Parliament any way to oppose or prevent it. A sad conclusion, if it would hold.

But then his Majesty maintaining of his negative power, puts this case, whether if the Papists in Ireland in truth were, or by act or accident had made themselves the Major part of both Houses of Parliament there, and had pretended the trust, (which the Parliament here doth) from the Kingdome of Ireland, & thereupon had voted their Religion and liberty to be in danger of extirpation, from a Malignant party of Protestants and Puritanes; and therefore that they should put themselves into a posture of defence; that the soulds and Militia of that Kingdome were to be put into the hands of such persons as they could confide in &c. whether he were bound to consent to all such alterations, as these men should propose to him, and resolve to be for the publique good.

I shall not need to prove the unlikelyhood of their accomplishing their desired ends; nor go about maintaine with the Observer, that there is a true and intimate an union betwixt England and Ireland, as betwixt England and Wales. Neither do I thinke if it were so that the two Parliaments would joyne

joynt for transacting and concluding upon matters for both states. But to the question I shall give this short answer; that I do not conceive the King in such case bound to consent to their proposalls. For I never did, nor shall allow, where their conclusions and requests are evidently against law, reason or Religion (if that may be presumed of a Parliament) that in such case the King is bound to yeeld to their Votes. No; farre be it from any one thus to judge; for that were to make him a tyrant, though against his will; and to be engaged in his peoples ruine against his conscience. But now what use or advantage can be made of this against the case in question (the Parliaments proposalls being not apparently either against law, reason or Religion) doth nonplus my understanding to imagine.

A faction is said to have prevailed upon a Major part by cunning, force, absence or accident. The **Obs.**
Observer argues thus against it. If by cunning we must suppose the Kings party in Parliament, hath
lost all their law, policy and fidelity.

The reason why they are overborne may be this, not because they have lesse law, but more honesty, As
which will not permit them to maintaine a good cause, by ill means.

No; the reason is evidently this, that they have little law, and little Honesty, which withholds **Rep.**
 them from promoting the publique safety. I but how falls it out, that after so many reiterated scandalous pretences, and deceivings of the people, the Author should now confesse that the cause is good only he adds that there is an ill prosecuting of it, which he ought to prove, if he expects we should beleive him. Certainly he did not read what he had written, or not understand it, or there is some hope now at the last (after the venting of his spleene) that he will prove a convert. But I dispaire of convincing him by better reason; for he is here in his very next words, fallen into a contradiction; where he saies, that *wee all know, in how great stead these Pix fraudes holy falsehoods, and religious untruth stood, the Church of Rome &c.*

And he concludes that *wee ought to examine, whether this policy worke not (at least in the beginning, till a discovery of their falsehoods is made, and the people is undeceived) the same effects in a*
civill State; whether there are not such things, as fraudes pretended to be Reipublicæ salutares

Here you have his apostasie, you may see how suddainly he hath declined the truth, for he is revolted againe into his pretences, deceipts and falsehoods. And I wish from my very heart, that these had no greater influence upon the Actions of this man, and such as he is, than they have upon the proceedings of Parliament, and then I am confident our sad Divisions and distractions would not be long lived.

I, but then the Observer saies, *It cannot be by force, because they have no army visible.* **Obs.**

A thing is said in law to be done by force, not onely when men actually suffer; if they make use of **Ans.**
their liberty and refuse to satisfie the passion and humours of some, but then also, when they have just
grounds of feare, for this workes on the minde as strongly, as be other on the body.

I, but with the Authors favour, this must be such a feare as may possesse a generous and settled spirit, not every idle Phantasme or Chymæra, such as they use to bugbear Children withall. It remains then, *we examine whether the names of many Gentlemen were not openly read in tumults.* **Rep.**

I marry Sir, here is one of the imaginary Spirits, that hath thus forced the understanding and reason of these men. Doubtles this is not a sufficient ground of feare (were it true, which I much question) to a resolved and settled judgement, neither doth the law take hold of any such feare as this is. I, but then he goes on; *whether that they were not poasted with directions to their particular lodgings.* I, here you have another of these Hobgoblins, and deformed Images, more fit to fray children with, than men; Because (if that were true) they were directed to their Chambers, and never intended, (as the event cleares it) to approach them; therefore they complied or were silent, and so that faction prevailed. I, but he goes yet further, *whether the way to the House, were not set with clamorous multitudes, that they must passe through the midst of them, whilest they informe them, what is fit to be voted, and inquire after their names, and what side they take.* This is like indeed to carry the visage of truth with it; May not men who are part of the collective body of the Commonwealth, whom the Parliament represents considering that *sua res agitur*, it is their businesse that is there transacted, have recourse thither, with a full desire onely to be informed of the proceedings of Parliament, and how things succeed for their good, but they must be branded with those ignominious stiles of unlawfull Assemblies and clamorous multitudes? For their inquiring what their names were, and which side they tooke; certainly that they may do without offence, and that can be no cause to make me dread a man, because he knowes my name, No; nor his being privy to my actions nei her, if I am conscious to my self, that they are such as are just and honourable; and for their informing of them of what was fit to be voted, that is as like to be true, as that they should vote, what they had informed them, For the other two of absence and accident, he saies, *they may be reduced to this. It is no wonder many stay away, since they must be absent, even whilest they are there. If their wills were absent, by being averse from the publique good, whose fault was it that they stood Cyphers? better in such case, their rome than their company.*

Obs. The Parliament requests of the King, that all great Officers of State, by whom publique affaires, shall be transacted may be chosen by approbation or nomination of the great Counsell. Could the King conceive this dishonourable for him, &c. if all Parliaments were not taken as deadly enemies to royalty?

Ans. Is that the reason, why each man preserves his owne right, because he takes all the rest of mankind for deadly enemies?

Rep. No, but had I not a strong mistrust of such mens faith and loyaltie; I should not upon just occasion feare to intrust my right with them. I, but can he with honour confesse himselfe unfit to manage that trust, which the law hath committed to him? Tis not a disavowing of his owne ability, to be ruled by the advise of his great Counsell the Parliament, one may manage a trust well, and yet no dishonour that a whole Kingdom may doe it better. with equall reason (sayes he) they may challenge to themselves the nomination of all Bishops, Ministers, Sheriffes, Iustices, &c. and dispose of all the preferments of England. For the Bishops (though our sad experience at this day doth informe us) that they have been very bad; yet we shall not speak of what necessity it might be, that they likewise should be nominated by the great counsell, for that it is boubtfull whether ever they shall come in nomination again. For the Ministers likewise I shall leave them to the choyce and free elections of their Patrons. But now for the Sheriffes, Iustices and other inferiour Officers of the law; I must confesse I much wonder how those can be brought within the ranke and order of great officers of State; neither can there be the like reason possibly rendred, for the nominating of these, as for the other; for though they may be corrupt in their way, yet that is a prejudice only to some particullar interests, no danger to the publike. The truth of it is, this Kingdome hath and doth still suffer under the heavi^e pressures of ill Counsellors and Officers of State, who instead of defending and propagating the good of the publike; have, and do most vilely and traitterously corrode and gnaw out the very bowels of it. Was not then their request and proposall very reasonable and safe both for King and people, that they might nominate such of that known and publike trust and confidence, who by their sedulous care, honest, and direct counsell, and which is above all, by their true and unfained zeale and affection to the common wealth, might prevent the like distractions and miseries for the future? But to passe this; had his Majestie beene graciously pleased for to hearken and comply with this advise of the Parliament, the greater had been his honour in that certaine pledge of continued happinesse and security to his people.

Obs. If the King chuse such a man Treasurer or Keeper out of his owne good liking only, or upon recommendation of such a Courtier, here he is divested of no power; but if it be upon the recommendation of the whole Kingdom in Parliament, who in all probability can judge better and are more concerned, this is an emptying himselfe of Majestie, and divesting himselfe of power.

Ans. If this will content them, they shall have as much power, as he grants to his Courtiers.

Rep. If this might be obtained, I am confident they neede not make a second request; Nay, could they be perswaded, that whatsoever they could propose, would be conceded by his Majesty, I dare say th^eir owne modesty, judgement and discretion, would not permit them to be guilty of so great dishonour to their King; as to extend their petitions so farre for increase of power, as some lately (to our sad experience) have enjoyed; I but he sayes, Counsellours must be like the outward senses; and make a true representation; the office of reason is particullar to him, to make judgement therein: their information is not alwayes faithfull; This would no wayes have deprived the King of the Office of reason; for their nomination did not take away his Majesties power of refusal upon just cause rendered. If by his last words he intends the information of the Court there he is in the right this age can testifie to him, that it hath not beene alwayes faithfull; But if he do intend his great Counsell the Parliament, there he doth digresse, and trespasse against common judgement and understanding, for that no age is able to witness any unfaithfulness or misinformation in a Parliament, I, but he sayes, if not out of duty to their King, and a just sense of his honour, yet out of love to themselves, and a naturall care of their owne safety, Subjects are bound in all legall wayes to expresse their dislike of this proposition. And why so? pray here his reason, For (saith hee) they must expect to suffer all those evils, which faction can produce, and what happinesse can be hoped for in a Kingdome divided in it selfe? This were the ready way to kindle a fire in my owne bowels, which would first breake out in the Counties electing, and divide the families of the Gentry by irreconcilable hatred: For it cannot be imagined, but that power will bandy against power, and relations against relations, to put soues or kindred into that road, which onely leads to preferment, &c. Very tragically exprest, though without any colour of reason, I believe that if our Author please, but to make a scrutiny, he will easily informe himselfe how that it is very rare to have great Officers of State of the lower House, and it will be very difficult to finde men equally qualified to such preferment. But if this might be, and that danger incurred to by transferring of such a power to the Parliament, yet since there can be no absolute perfection or happinesse on this side heaven, but that all humane inventions, whether of law, or whatever else will retaine or contract (either more or lesse) some mixture or tincture of ill in them. Why then should we waive a certaine benefit, for a possible inconvenience? or reject the unquestionable

onable *commodum*, for fear of a casuall *incommodum*, the bread that a man doth now eat, may choak him, and his house that he now lives in falls upon his head; shall he therefore deny himselfe the certain nutriment of the one, or the secure habitation of the other? for feare of these visible dangers? were phanaticke and ridiculous. By this rule a man should refuse and decline all terrene and sub-lunary happinesse whatsoever, for that there is not so certain and immutable condition, that is not subject to a possible pollution and corruption. Now I believe it doth fully appeare that the Law of that Remonstrance laid down by his Majestie by way of recapitulation, in seven positions, is just and without offence, being such as will bring unquestionable happinesse both to Church and State, not denying our obedience to the King, nor our true and faithfull service to God.

1. That the Parliament hath an absolute and indisputable power of declaring Law.

This power must rest in them or in the king, or in some inferior Courts, or else all suite must be endlesse, and it can no where rest more safely than in Parliament.

These two Houses are not the Parliament, The subject of such power is the intire body, which consists of three estates.

Obs.

Ans.

Rep.

If deserted by the King they are, otherwise not. I, but he sayes, *some things are cleare and evident in law, and want no declarer, if otherwise, all the subjects right would lie in the breast of the Judge* Very just, and some things are dubious in law and want a declarer (such is the case betweene the King and Parliament) and this must rest upon the breast of the Judge, which in this case is the Parliament. I but he sayes, *If the Houses should vote younger brothers ought to inherit by the law of England, could this destroy the right of the first borne?* A subtle *quære*; but most easily answered and resolved. It is very manifest it could not, for that this is a case which is evident and cleare, and here the law may be its owne Judge, and needs no other interpreter or declarer. Besides this is a destroying or repealing of the old law, and an introduction of a new, which cannot be done, without the three estates. But they may declare what the common law of the land is, without the King, which is only a passing sentence, upon the debate and reasoning of a new case, by the old law, so that the Judges are guided by this rule of law, *ubi eadem ratio, ibi idem jus*, where there is the same reason, there ought to be the same law; pray observe, and this will correct your mistake; though the case be new, yet if it may be brought to the reason of the old law, *tis idem jus*, not *alind*, the same, no new law. The truth of it is, that law is but a more pure and refined reason, and as reason is alwayes one and the same; so of necessity must the law be.

That the Parliament are bound to no Presidents Statute are not binding to them, why then should Presidents? Yet there is no obligation stronger than the justice and honour of Parliament.

Obs.

This is an excellent ground to justify their owne innocency against all the world. For if they can make it appeare they are not bound to keepe any law, no man can accuse them for the breach of any.

Ans.

Rep.

Our Author thinks he hath here got a strong hold and advantage against us. Why wee shall allow (as without question the Law is) that Statutes are binding to the two Houses of Parliament, as well as others, till repealed; But doth this any way disprove this position, that they are not bound to Presidents? You know what they say (who are best acquainted with the bounds and limits of their owne power) some Presidents are not to be followed, as being not lawfull, and all may fall short, and be different from the present case and condition of things, and therefore tis no reason that they should be bounds to the proceedings of a Parliament. 3. That they are Parliaments, and may judge of publike necessity without the King, and dispose of any thing.

Obs.

They may not desert the King, but being deserted by the King, when the Kingdome is in distresse they may judge of that distresse, and relieve it, and are to be accounted by the vertue of representation, as the whole body of the State. To dissent, after he hath granted, whatever can in reason be desired, is not to desert the Houses. Just, but then by the rule of contraries, to dissent, before he hath granted whatever might in reason be demanded, is a desertion of the Houses; and this you do tacitely allow. Why now the onely judge in this case of reasonable or unreasonable demands, is the Parliament, and they have adjudged their request reasonable, wherefore it is your duty and mine (wihout wee will oppose our judgements to theirs, which will be extreme arrogancy) to believe they are so: however what their awefull authority will not do, their reason ought. But he sayes; upon pretence of distresse, to take illegall courses, is as if they should perswade us we are not in health, and therefore they must break our beads to forward our recovery. Right, but in case of apparent and imminent danger (as now) if the great Physician of the common-wealth shall neglect his patient, it may by all lawfull and legall courses (as it doth now) indeavour its owne preservation. They represent the people to some purposes, not the King to any, and therefore are but a part of the State. Very true, if the King do not desert them, but if he do, then they represent the whole State.

Ans.

Rep.

4. That no member of Parliament, ought to be troubled for treason &c. without leave.

This is intended of suspicious onely, and when leave cannot seasonably be had, and when Competent accuse appeare not in the impeachment.

Obs.

If by suspicions, be meant onely a bare not confiding in, this injustice cannot be sufficient ground.

Ans.

Not for suspitions is meant, a labouring for an Arbitrary power, for which there is no ground, and of which the whole Parliament must needs be equally guilty, this is as insufficient a cause of impeachment as the other. But upon Articles drawne, and proofes in readinesse, which it is not fit to produce, while the accused parties are at liberty, they may be meddled with. True if competent accusers appeare in the impeachment, then they may be arrested and detained to appeare before the Parliament; but there ought to be no other prosecution, in any other Court or way than in Parliament, whereby they may be deprived of a member, without their consent. I, but sayes he, if the Houses being adjourned, were not able to give consent; or upon too much confidence, should not be willing hath not the law provided in such a case for tryall of treason? For the first, no doubt, where they are not able to give consent, there they have not power to dissent. And for the latter if upon hearing of the cause, the accusers appeare to be competent, and the cause of impeachment legall and just; were so much presumption and confidence in us, for to believe them so confident, as not to be willing, to give way for a legall tryall.

That the Sovereigne power resides in both Houses of Parliament, the King having no Negative voyce.

Obs. This power is not claymed as ordinary, nor to any purpose; but to save the Kingdome from ruine, in case where the King is seduced, and that he prefers dangerous men, and prosecuts his loyal Subjects.

Ans. Not as ordinary; that is, they will only be Kings as long as they please and when they are ready of raigning, the kingdome shall be out of danger, and then it shall be his turne to command againe.

Rep. The Author might have spoken truth in better and more honourable language, both to King and Parliament, if he had pleased. That is, they will, as of right they ought, represent the whole State, the King deserting of them, so that, they may be enabled to, preserve the Kingdome from ruine, and when that shall be out of danger, then shall his Majestie freely enjoy his negative, according to law and right. To save it from ruine; the law hath better provided for the peoples safety, by prohibiting all illegall executions of power, grounded upon what specious pretences, (as by illegall executions of power (such as the Commission of Array) are not to be justified. So legall (such as the Militia) are not to be condemned. And in case where the King is seduced, that is, when he is not so wise as he should be, because he doth not thinke as they do, and refuses to satisfie the humors and interests of some, I dare not say that the King is not so wise as he should be. No, such irreverend dialects I leave to the Author. But this I may say, had not his Majesty waived the small advise of his Parliament (who seek nothing but the peace and happiness of him and his people) and satisfied the humors and interests of others (who ayme at nothing more than the ruine of both) these sad disasters had not fallen upon us. And prefers (this seemes to be the cause of all; preferments do not goe the right way) true for none but Commissioners of Array, do now happen preferments) dangerous men; that is, such as desire he should governe according to the known lawes of the land. were we before the Parliament governed according to the known lawes of the land? they are the same men that still labour to defend the same rule and power. And prosecuts his loyal Subjects that is, driven from London to York; where he long time patiently expected the undecaying of the people. No, he parted from London, or if you please (that I may speake truth) was seduced by malignant Counsell, to make so unhappy a change; And I wish from my very soule that his sacred person were not more deceived by, such, than his people are by the Parliament.

That leaving off forces against the personall commands of the King (though accompanied with his presence) is not levying war against the King: but war against his authority, though not person, is war against the King.

ON. If this were not so the Parliament seeing a seduced King, ruining himselfe and the Kingdome could not save both, but must stand, and looke on.

Ans. It is against common sense to fancy a King ruining himselfe and kingdome, he can neither be willing nor able.

Rep. It is not to be presumed that a King rightly informed will, but a King seduced may; and upon treacherous and unworthy advise, forraigne aid will not be wanting to do that, which domestick cannot.

7. That according to some Parliaments they may depose Kings.

Obs. It is denied that any King was deposed by a free Parliament lawfully elected.

Ans. This is most certaine, but takes not off those words upon which this proposition is grounded.

Rep. But it doth, with any faire and candid reading and interpretation: For when the Parliament saith, that all Presidents ought not to be rules for them to be regulated by; this position must necessarily intend those of deposing Kings; for that the presidents of forced Parliaments ought not to be followed.

These might well have beene omitted, as being more fully handled in the booke, But lest hee should complaine any thing was past over, I chose by a short review to be his remembrance.

